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## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 20, 2004, at 2 p.m.

## Senate

WEDNESDAY, APRIL 7, 2004

The Senate met at 9:45 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord our God, whose power and love destroyed the darkness of death and sin, thank You for hardships that keep us humble and for misfortunes that keep our minds on You. Rule our wills by the might of that love wherewith You have set us free. Keep us from untimely and self-made cares, as we continue to look to You, the author and finisher of our faith.

Support our Senators with Your grace. Give them faith to look beyond today's challenges and trials and to know that neither life nor death can separate them from Your love. Help each of us to prove our gratitude to You by selfless service for those who need our love and care. We pray this in the Name of our redeemer. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, April 7, 2004.

#### To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. This morning, the Senate will conduct a period of morning business until 10:45 a.m. We may make some adjustments to that because we want a full hour of morning business. There will be some leader time used by myself and the Democratic leader. Morning business will be for an hour, with the first half under the control of the Democratic leader and the second half under the control of the majority leader.

Following that 1 hour of morning business, the Senate will begin 2 hours for debate with respect to the motion to proceed to the Pregnancy and Trauma Care Access Protection Act of 2004.

Following the debate, the Senate will recess until 2:15 for the weekly policy luncheons to occur. When the Senate reconvenes at 2:15, there will be a vote on invoking cloture on the motion to proceed to the consideration of the Pregnancy and Trauma Care Access Protection Act. This procedural vote will require 60 votes. Unfortunately, it became necessary due to objections from the other side of the aisle.

Following that vote, the Senate will conduct a second cloture vote relating to the FSC/ETI, the JOBS bill. This will be the second cloture vote with respect to this JOBS bill, the FSC/ETI bill. I hope we will be successful in invoking cloture and bringing this FSC/ETI issue to conclusion.

An issue we need to address this week is the pension equity conference report. That conference report has passed the House by a large margin, and it is now at the desk. We need to consider that measure prior to adjourning for the Easter recess. I will be talking to the Democratic leader after our statements this morning about reaching an agreement for a period of debate and a vote on the pension equity conference report.

I will briefly comment on the JOBS bill, the FSC/ETI bill. The progrowth policies this Senate, this body has passed in 2001 and 2003 are policies which keep more money in the hands of individuals and businesses and out of the grasp of Government. These policies have begun to pay dividends, dividends we have seen over the last several months, realized in the improvement in the economy and in the job

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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creation numbers, which have steadied and now begun to increase.

The point is, we can, we should, and we will do more. Today, we have an opportunity to further enhance the creation of jobs which are so needed here at home, by taking positive action to move the JOBS bill—that is, the Jumpstart Our Business Strength Act, the FSC/ETI bill—through this whole maze of parliamentary obstacles that are currently handcuffing this bill. It is important for us to do. We absolutely must accomplish that this week.

As most know, this bill brings together our trade and tax laws. It brings them in compliance with our trade agreements. It will also create tens of thousands of new jobs over the next several years. Given that much of the benefit of that legislation goes to U.S. manufacturing firms, these jobs are likely to be high-wage, high-skill jobs that are necessary to ensure strong economic growth.

As many of my colleagues know, the Europeans are already imposing tariffs on our exports. The tariffs started last month, March 1, at 5 percent of the \$4 billion authorized. They will increase 1 percent; that is, \$40 million, each and every month that passes. The tariffs, in effect, are a European tax on U.S. manufacturers, and they are devastating U.S. businesses.

According to the American Forest and Paper Association, in the forest products industry alone, approximately 1,400 jobs are at risk due to these tariffs. It is time for us to act; it is causing real economic hardship.

There is a company with operations in both Ohio and Wisconsin called Robbins Sports Surfaces. Jonathan Turner is their director of purchasing. He wrote an e-mail that summarizes why we need to act and to act now:

The estimated average value per year for all items that the EU has sanctioned has been about \$300,000.00 for my company. . . . Because competition is so fierce in these markets, any import duty will likely cost us that business to a European competitor. With the initial import duty, we cannot compete effectively in Europe at this time. We need to sell our products to the EU and are in favor of discontinuing this duty. For 10 years we have exported to the EU and are in danger of losing that market if FSC/ETI is not resolved.

That is just one example—Jonathan Turner's words in an e-mail.

A vote against cloture is a vote in support of this Euro tax, whether it is on Jonathan Turner or Robbins Sports Surfaces or thousands of other companies also facing these tariffs. So I do hope my colleagues will join me and others in voting in favor of cloture this afternoon so we can move forward on this important bill.

#### ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I mentioned earlier that we do want our colleagues to have a full 60 minutes for morning business. So at this juncture, I ask unanimous consent that the

morning business period be extended for the full 60 minutes, with the time divided as under the previous order.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

#### ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the morning business allotted to the Democratic side be divided 15 minutes for the Senator from New Jersey, Mr. CORZINE, first; and 15 minutes for the distinguished Senator from Oregon, Mr. WYDEN, second.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONSIDERATION OF FSC/ETI

Mr. DASCHLE. Mr. President, I wanted to come to the floor to respond, if I could, to the comments made by the distinguished majority leader. He made a very good statement about the importance of the FSC/ETI bill. I do not know whether there is unanimous support for FSC/ETI, but I do know there is strong support for it. It passed by a large margin out of the Finance Committee, and I think there is a great deal of interest in passing it on the Senate floor. So this is not a question whatsoever about support for the bill.

We have been on the bill now for 7 days. This is the seventh day. We have actually had a vote on one amendment having to do with outsourcing—7 days, one vote. I am absolutely convinced if we had spent these 7 days working through the list of amendments—and I have the list in front of me—we would have finished this bill by now.

In fact, Mr. President, I ask unanimous consent that the list of amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1637, FSC/ETI BILL (2ND LIST)—UPDATED 1 P.M., MONDAY, MARCH 29, 2004

Bayh: (1) China trade laws; and (2) manufacturing.

Breaux/Feinstein: (1) Re-patriation.

Cantwell: (1) UI.

Corzine: (1) Trade barriers; (2) COBRA; and (3) trade enforcement.

Daschle: (1) Job creation package.

Dayton: (1) Strike all international provisions; (2) capturing tax credit; (3) housing; and (4) check the box.

Dorgan/Mikulski: (1) Runaway plants.

Feingold: (1) Buy America provisions.

Graham: (1) Strike international manufacturing and replace with job credit; (2) repeal of international title; and (3) relevant.

Harkin: (1) Overtime.

Harkin/Wyden: (1) No tax deduction for outsourcing.

Hollings: (1) Strike all international provisions.

Kennedy: (1) Family opportunity act; (2) strike some international provisions; and (3) notification (with Daschle).

Lautenberg: (1) Foreign subsidiaries doing business with terrorist nations.

Levin: (1) Tax shelters.

Miller: (1) Green bond.

Murray/Durbin: (1) Malpractice insurance tax credit.

Pryor: (1) IRA.

Reid/Dorgan/Coleman: (1) Production tax credit.

Schumer: (1) NY; and (2) China.

Stabenow: (1) Tax benefits for domestic production.

Wyden/Rockefeller: (1) TAA for services and health care.

Mr. DASCHLE. I have indicated to Senator FRIST that I feel strongly about the importance of working with him to try to finish deliberations on this bill. Instead, what we have gotten from some on the other side is just a lot of posturing.

This was the original bill: 378 pages. Well, they denied the Democrats the opportunity to vote on one amendment and came back with the second version; this has 567 pages. They denied the opportunity, once again, to offer Democratic amendments, but now they have 969 pages of new amendments. So what they are telling us this morning is that this amendment is OK, but Senate Democrats cannot offer any of their amendments that are relevant, that are certainly appropriate, but that would fall under cloture today.

I have urged my colleagues to reduce the number of amendments that they had intended to offer, and virtually every one of them has obliged. We started out with about 75 amendments. It came down to 40 amendments. Now it is down to around 25 amendments. If we had a finite list, I am sure we could work those down even more as we debated these amendments.

So I am troubled and, frankly, somewhat frustrated. Senator FRIST, since he has been majority leader, has had a very good managerial style, where he has come to the floor, he has allowed Democrats to offer their amendments, and we have worked through bill after bill, including a very complicated highway bill in a very short period of time. Well, this is not in keeping with that practice, and it is troubling to me.

About a week ago, I also indicated we would be prepared to finish the welfare bill this week if we could work through the amendments, and that was not possible either.

I hope people understand this has nothing to do with support of the bill. This has to do with support of having an opportunity to do what this Senate is supposedly known for, which is to have a vigorous debate in what is called the most deliberative body. Having one amendment in 7 days is not my idea of thoughtful deliberation. We have been hung up on procedure and hung up on issues that have nothing to do with the FSC/ETI bill as it relates

to stopping—I would say obstructing—Democrats from offering these amendments.

I am hopeful that once we get beyond this cloture vote, we can lay the bill down and we can work through these amendments. I will work with the majority leader to ensure we have adequate cooperation on this side, as I have offered from the very beginning.

#### MEDICAL MALPRACTICE

Mr. DASCHLE. Mr. President, the second issue, that I just mention briefly, has to do with the cloture vote on the medical malpractice issue that will come before the Senate this afternoon.

This bill actually differentiates between those who walk in the front door of a hospital and those who get emergency care. We objected last time we voted on this because it differentiated between men and women. Men and women would be treated differently under the bill that cloture was voted on a few weeks ago. Now our Republican colleagues add to that people who walk into a hospital or are taken into a hospital via an emergency room.

This draws a distinction that I think is inexplicable. If you are injured in an emergency room, under this legislation, you have virtually no legal recourse. If you are injured by walking through the front door of a hospital, you still have all the recourses that are allowed under Federal law. Drawing that distinction, to me, is not an improvement. That is not reform. Yet that is what some of our Republican colleagues have said.

On more than one occasion, Senator LINDSEY GRAHAM and Senator DICK DURBIN have said they are prepared to work, in a bipartisan way, to allow us the opportunity to address meaningful malpractice reform, including the high cost of malpractice insurance. But that is what it is going to take.

Having cloture votes on bills that draw a distinction between two circumstances that have nothing to do with punitive damages, or with economic damages for that matter, is something I think will get us nowhere. This vote, as all the other votes, will not be accepted. It again reminds us how important it is that we work together to find a real solution to malpractice, as Senators GRAHAM and DURBIN are doing.

#### CONFERENCE PROCEDURES

Mr. DASCHLE. Finally, Mr. President, let me just add one other troubling aspect to this discussion this morning, and that is the pension bill.

Our caucus will be discussing this matter this afternoon. I am hopeful we can find some way to address the issue of pensions in a meaningful way. I have indicated to Senator FRIST how concerned we are with the way pensions have once again been addressed in conference. We used this conference as a test to see whether Senators, in a bi-

partisan way, can work together, but once again Democrats were locked out of the discussions in a way that brought about a very questionable result.

The Senate voted 85 to 14 to support multiemployer and single-employer pension plans. We went to conference. We had a tentative agreement that at least 20 percent of the multiemployer pension plans would be addressed. We felt that was a sufficient effort to address some of the real plans in crisis.

Unfortunately, the White House told the conferees that that was unacceptable to them and, without consultation and without any effort to resolve the matter in some form of bipartisan compromise, Democrats once again, as we saw last year with the Omnibus legislation, with the Medicare prescription drug benefit, and with other bills, got the same result. It is no wonder our colleagues are so reluctant to go to conference. Once again, as the pension bill proved, the conferences are not working as they should.

It is for that reason many of us are very concerned about what now to do with the pension bill as it is presented. We will have a good discussion about that in caucus today and make some decision as we go forward.

This is not the way conferences should work. It is deeply troubling to many of us that again we find ourselves in exactly the situation that I warned would cause further problems were it to happen again. It has. I regrettably feel as if conferences in the future are going to be very difficult, if not impossible.

I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Oregon.

#### OPEC

Mr. WYDEN. Mr. President, in the last few days, the Foreign Minister of Saudi Arabia has said—and it has been widely reported by our country's two largest wire services—that Saudi Arabia was not contacted by the Bush administration over OPEC's recent decision to cut oil production by 1 million barrels per day. I was very troubled by these comments by the Foreign Minister of Saudi Arabia. I want to read

specifically what the Saudi Foreign Minister said when he was asked whether the United States had expressed its disappointment over OPEC's cut in oil production. The Foreign Minister of Saudi Arabia said:

I didn't hear from the Bush administration. I'm hearing it from you that they are disappointed.

This ought to be troubling to every Member of the Senate. Up and down the west coast of the United States, our constituents are getting mugged by high gasoline prices. In community after community, citizens are paying more than \$1.90 a gallon. The high driving season is just upon us, and escalating gasoline prices are going to be devastating to consumers and to our economy overall. We all understand consumer spending is a major driver of our economy today, and it is going to be harder and harder to grow the economy and create private sector jobs if these gasoline prices continue to skyrocket.

I am hopeful my colleagues on both sides of the aisle will support the resolution I have introduced urging that OPEC increase production. The reason I am hopeful for bipartisan support is that this resolution, in terms of its substance, is identical to one introduced on February 28, 2000, with our current Secretary of Energy, our friend, Spence Abraham, as one of the principal sponsors. Back then it was clear that our colleagues thought it was important, and we had a number of our colleagues who serve today, our friend Senator GRASSLEY, distinguished chairman of the Finance Committee, Senator SANTORUM, and others, all of whom said—and I share their view—that it is important for every administration to put the heat on OPEC in order to protect our consumers. It was important then to make it clear that it was the position of the U.S. Senate that OPEC boost oil production, and it is just as clear now.

At the time that resolution was adopted in March 2000, a resolution sponsored by then-Senators Abraham and Ashcroft, oil prices were in the \$25-per-barrel range with a high of \$27 per barrel in February of 2000. In recent weeks, oil prices have been in the range of \$35 per barrel, spiking up to \$38, a 13-year high, last month.

In 2000, then-candidate George W. Bush said it was important to put pressure on OPEC to boost oil production. I certainly share his sentiments. Yet with the comments of the Saudi Foreign Minister last week, it is clear that at best, there has not been a full court press in this administration on Saudi Arabia, on OPEC in order to increase gasoline production.

If ever there were an administration that had earned some bargaining chips to push Saudi Arabia to increase oil production, it is this administration. After 9/11, there was an effort to help the Saudis, a number of them, leave our country. When there was concern about charities and the role that charities had played in financing 9/11, it

was difficult to get key Government documents declassified.

The fact is that Saudi Arabia keeps getting a free pass again and again. On this issue with respect to oil production, if ever there were an administration that had some bargaining chips to play in trying to get OPEC and the Saudis to increase oil production, it is certainly this administration. Now the Saudi Foreign Minister has said, just after OPEC announced another million-barrel-per-day production cut, it was not even contacted by the Bush administration to keep oil production high.

There are other troubling signs which have led me to introduce this resolution. When Secretary Powell was in Saudi Arabia about 2 weeks ago, he also had a chance to talk about the oil crunch and how it is so harmful to the American consumer. The press release that came from the U.S. Information Agency—this is another document coming from our Government—indicated that the Secretary and the Crown Prince and Foreign Minister talked about a number of subjects—terrorism, governmental reforms, a variety of issues—but not the question of oil prices and keeping oil production high.

I have said that OPEC is going to stand up for OPEC. Anybody who thinks OPEC is going to stand up for the American consumer thinks Colonel Sanders is going to stand up for the chickens. OPEC is doing what they think is in their self-interest. If you think they are going to stand up for the consumer, it is a delusion; it is not going to happen. But it is the job of our administration, just as it was in 2000, to stick up for the consumer who is getting clobbered with these gasoline prices.

When the Saudi Foreign Minister says he hasn't even been contacted on this question of boosting oil production, I say that is not good enough. That is not good enough, given the harm it has done to our economy and our consumers by these gasoline price hikes. It is certainly not good enough for the people of Oregon, where consistently we have paid some of the highest gasoline prices in our country.

The American people are entitled to some answers. Certainly, they are entitled to an administration, just as they were in 2000, that does what then-Governor George W. Bush says was important, and that was to push OPEC, put the heat on OPEC, have a full court press on OPEC to increase oil production. Instead, what we have learned from the Saudi Foreign Minister in recent days is that the administration has essentially sat on its hands with respect to this oil production issue.

I will tell you, I think what is coming on this gasoline situation is a perfect storm. The combination of the shenanigans by OPEC—the fact that we are filling the Strategic Petroleum Reserve at the wrong time, swiping oil from the private market, squirreling it away in the reserve at a time when we

have enough for our national security needs; the fact that the Federal Trade Commission is not following up on anticompetitive practices—are the factors that are going to come together for a perfect storm with respect to this gasoline issue.

I think it is critically important this Senate go on record on an issue we can do something about, just as we did in 2000 when we were led by a number of our colleagues on the other side of the aisle in making an effort to boost oil production. We ought to do the same now and stand up for the American consumer.

I have introduced S. Res. 330, and I ask unanimous consent that Senator CARPER, Senator GRAHAM of Florida, and Senator DASCHLE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I also want to make sure our colleagues understand the timetable that is behind my resolution. On February 28, 2000, then-Senators Ashcroft and Abraham introduced a resolution calling on President Clinton to pressure OPEC to boost oil production before an OPEC meeting. That resolution passed the Senate by unanimous consent.

On June 22, 2000, then-candidate George Bush said:

I would hope the administration would convince our friends at OPEC to open the spigots.

On February 10, 2004, our current Secretary of Energy said:

[It is] very clear we are not going to beg OPEC for oil.

On April 1 of this year, at a White House press briefing by Scott McClellan, he said:

Let me just continue to reiterate that we remain actively engaged in discussions with our friends at OPEC. . . . We continue to make our view known. The President certainly makes his views known when he meets with world leaders and when he talks with world leaders. High-level administration officials from Dr. Rice to Secretary Powell to Secretary Abraham are always in close contact with producers around the world to make our views known. And we continue to do so.

But given that timeline, on April 1 of this year—just a few days ago—the Foreign Minister of Saudi Arabia said he had not been contacted by the Bush administration over OPEC's decision to cut crude production by 1 million barrels a day. The Saudi Foreign Minister said:

I didn't hear from the Bush administration. I am hearing it from you that they are disappointed.

That is a direct quote from the Saudi Foreign Minister. We have to have an administration that puts the heat on OPEC, that pushes them to increase oil production and, just as the Senate said in 2000, we ought to say it in 2004.

So given what I have just outlined, I now ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of

S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of OPEC and non-OPEC countries that participate in the cartel of crude oil-producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices; that the Senate proceed to its immediate consideration; that the resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, reserving the right to object, this resolution has recently gone to the committee. It needs to go through the process. I certainly empathize with many of the things the Senator from Oregon has propounded. However, I must respectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. WYDEN. Mr. President, what is troubling about the objection of our distinguished colleague from Texas is that this resolution is, in its substance, identical to the resolution that was offered by those on the other side of the aisle in 2000. It is interesting that when I came to the floor first to discuss this resolution, the distinguished Senator from Kentucky, our friend Senator MCCONNELL, said that certainly if we applied a set of principles to the Clinton administration, we can look at it as it relates to the Bush administration. That is exactly what I am doing.

I will tell you, I listened to all of the arguments for the Bush administration's position. We hear about "quiet diplomacy," for example. Maybe it is quiet diplomacy, but apparently the Bush administration's brand of diplomacy was inaudible to the Saudi royal family. So I cannot understand why there would be an objection from the other side with respect to this resolution.

We have the Saudi Foreign Minister saying he had not been contacted by the Bush administration. I outlined the specific timeline of events between 2000 and 2004 that makes the case, in my view, why every Member of the Senate should want to support this resolution, which in terms of its substance is identical to the one passed in 2000. So I think it is very unfortunate that there has been an objection. I note that there has. I hope we will be able to take it up as expeditiously as possible.

Mrs. HUTCHISON. Will the Senator yield for an answer to his question?

Mr. WYDEN. Of course.

Mrs. HUTCHISON. Mr. President, with all due respect, I do sympathize with much of what the Senator from Oregon has said, and I am frustrated as well. But I think it is important that the Senator recognize we do have a process; that this is 2004; it is not 2000; and it is not 2002.

Furthermore, I say to the Senator from Oregon that we have many ways

to increase the supply of oil in our country. Passing the Energy bill that has already passed the Senate, that went to conference and was held up by the Democratic side by two votes would give us the supply that we need to lower the cost of fuel in our country. We have at our disposal the capability to lower prices.

Mr. President, I think it is incumbent upon all of us not to just look at the cartel that is OPEC, but to look at our own resources and to control our own resources. We have the capability to do that and we are not because of the obstructionism on the Democratic side.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WYDEN. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WYDEN. Mr. President, first, the Energy bill would do absolutely nothing over the next few months to lower these gasoline prices. What will help to lower the prices is passing this resolution and pushing OPEC to increase crude oil production. In fact, Republicans have even asked, with respect to the Energy bill, what it would do to gasoline prices. There is no evidence that it will lower prices.

This resolution does something in conjunction with making sure we stop filling the Strategic Petroleum Reserve, making sure the Federal Trade Commission deals with these anti-competitive practices.

This resolution can make a difference by pushing OPEC to stand up for the consumer. It was good enough in 2000 when a number of our colleagues, led by current Secretary of Energy Abraham, said it made sense. I submit this is something, unlike the Energy bill, which can make a difference for the gasoline consumers getting hosed at the pump right now.

For that reason, I think it is unfortunate my colleagues have objected. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 15 minutes.

#### ECONOMIC SECURITY

Mr. CORZINE. Mr. President, I rise to speak on America's economic security—rather, I should say America's economic insecurity at the moment.

Before the Senator from Oregon leaves the floor, let me compliment him on bringing up one of those issues that absolutely must be addressed, one of those issues that is squeezing middle-class Americans: their gas prices—natural gas prices and gasoline prices.

The idea that we are unwilling, after we are committing so many resources to the Middle East, to try to bring stability and democracy in the Middle East and not use our diplomatic capital to accomplish what the Senator from

Oregon is speaking about, to bring forth a response from OPEC, is just unfathomable. It is absolutely an abject failure in the context of economic policy management and certainly on diplomatic efforts.

I compliment the Senator for his efforts. I hope he will include me as a cosponsor of his resolution.

As I said, I wish to speak about America's economic security. We have certainly heard in the last 48 to 72 hours a lot of celebration and victory laps being taken with regard to 1 month's economic report on employment in the United States.

All of us are pleased to see that jobs have been created in the United States. We are glad to see they finally met something that looked like the expectations that have been talked about for the 38 months this administration's stewardship of the economy has been in place. It is positive for those who have found jobs, but it is failing to take into account something that I think is very important in the reality of people's lives and something that is not being celebrated on the ground among working men and women in the United States, and that is an incredible squeeze on moderate and middle-class families in this country across the board.

It is great to celebrate big-picture statistics, but the last time I checked, statistics are not how people live their lives. The reality is we have almost 8.5 million unemployed Americans. That number actually grew last month by about 180,000. For those folks and for many people who feel as if they are at the edge of whether their job will continue, the situation is really quite serious. Those kitchen-table issues actually make a difference in people's lives.

I will be specific. Just last month, we closed the next to the last auto production facility in New Jersey. Mr. President, 1,500 manufacturing jobs were eliminated in New Jersey. By the way, we have one last plant, which is scheduled to close in May of 2005. Then we will have the auto industry completely eliminated from the State of New Jersey. We have already had the textile industry eliminated. We have seen AT&T and Lucent lose literally tens of thousands of jobs over the last 2 to 2½ years in my home State.

When people lose in these contracting industries, we see a decline in the real standard of living when people are reemployed. The statistics show that the average loss, since the last recession, for people who lose jobs at \$44,000 when they were working to their next job at \$35,000 was 21-percent decline in their real earnings. That is what happens when people are part of that growing job set but, unfortunately, they are losing their manufacturing jobs, they are losing their white-collar jobs, and they are moving into service sector jobs that are dramatically less valuable for their families and their own economic well-being. It is a big hurt, and I know it is a big

hurt on those folks I see and talk with in my home State.

Think about it: We have gone from 6.5 million unemployed to 8.4 million unemployed under this administration's stewardship of the economy. When people get jobs—it is good we see job growth—they come back at a lower earning capacity than before.

That is not the only place we are getting hurt. For most middle- and moderate-income families, they have to deal with trying to make ends meet with regard to health care costs and tuition that goes on in their State and, as we just heard very eloquently expressed by Senator WYDEN, increasing gas prices. These are items for which real dough is coming out of people's pockets. We have gone from earning \$44,000 a year on jobs lost to \$35,000 in jobs found, and we have income not keeping up with the cost of medical care.

We have seen an almost 15-percent increase in medical costs for individuals since 2001, while we are seeing less than 5 percent in real income growth. That is a huge gap. By the way, at the same time, there were 3.5 million, almost 4 million Americans who lost their insurance during that period of time, so these costs are actually real. They are coming right out of their pocketbooks. Those 3.5 million to 4 million people are having to pay those costs, and that is why I talk about economic insecurity. This is a reality in people's lives: lower income, higher costs, and they are having to deal with that around the kitchen tables across America.

We might have one great number out of 38 months of economic stewardship as far as job creation, but I do not think it is translating into reality in people's lives.

Let me use another example: increasing tuition costs. There has been a 14-percent increase in tuition costs last year alone. These numbers are up about 25 percent since the Bush administration came into office. We have seen Pell grants go from about 42 percent to about 35 percent. Income, relative to tuition costs for kids accessing the American promise through higher education, has just been a tragedy. We are seeing people not able to afford the kind of education that will allow them to grow their income.

The difference between having a college education and a high school education or high school dropout is a dramatic improvement in their real earnings. We are seeing incredible pressure being put on middle-class Americans in tuition, just as we are seeing in health care costs.

I could go through a whole laundry list of other expenses most Americans have to meet and discuss around the kitchen table. Property taxes in New Jersey have gone up 7 percent in the last 3 years. One of the reasons is we in Washington keep putting mandates on them, and all those mandates trickle down to the local level, the local

school board. They have to meet No Child Left Behind standards and IDEA, special education mandates, and the only way to meet those mandates is to raise property taxes. It is wonderful that we are cutting taxes in Washington, but they are going up dramatically in the State and local governments. It is a very substantial hit, particularly for middle-class and moderate-income Americans.

Again, it is great that we saw 1 month of job growth, but what about these trendlines with regard to college tuition?

What about the trendlines with regard to medical expenses? What about the trendlines with regard to property taxes? Now we are seeing an explosion in gasoline prices. I think that is why there is a sense of economic insecurity among Americans.

It is great to take these victory laps and put all the spin that one wants to put on what is going on with regard to job growth, but it is not matching reality in people's lives. It is not matching with those 1,500 families who are losing their major wage earner at the Edison Ford plant in New Jersey. That is happening across the country, and I think it is a shame.

We will talk a little bit about the job deficit in a macro term. We like to talk about 300,000 jobs grown in a month, but the fact is this is the only administration since Herbert Hoover that is actually going to be overseeing 4 years in office without having any job growth, unless there is a miracle that we have a job growth of 300,000 a month between now and next January.

There has been roughly 2.6 million jobs lost in the private sector, 1.8 in the overall sector because somehow or another we seem to be growing Government for an administration that thinks Government is not a good thing. Anyway, we are seeing job losses where we have not seen it before, all the way back to the Depression. No other President is going to have overseen an actual shrinkage of jobs. By the way, just for comparison purposes, there were about 22 million jobs created in the previous administration. So when the Democrat presumed Presidential candidate talks about 10 million jobs, at least there is a record to run on.

History will show that if we want to see job creation in this country, and we want to have balanced policies with regard to taxes and budget deficits, then we have to make sure we are investing back in the American people in a way that makes a difference.

We have seen these manufacturing jobs leave America, which has shown a reduction in the quality of the jobs that are replacing them. We have seen a reduction in the number of jobs overall.

I think that to get so focused on 1 month's number in celebration is a little bit like some of the other things we have seen that I think undermine the credibility of those who claim everything is so wonderful. There are credi-

bility gaps on all kinds of issues, not only with regard to jobs where there is a 7 million job deficit from the economic report of the President of 2002, post-9/11, projecting there were going to be 5.6 million jobs and there are actually 1.8 million less. That is a 7 million deficit relative to what was projected at that point in time.

We have promised we would cut taxes without using Social Security trust funds. Well, we used every penny of the Social Security trust fund to pay for both the tax cuts and the expenditures that we made in the country.

The claim that any deficits would be small and short term, well, we all know they have not been small. There are record deficits right now, \$500 billion-plus this year. People are talking about as much as \$5.6 trillion worth of deficits in the next 10 years. We are seeing a \$10 trillion swing in cashflow of the Federal Government in the 10 years that encompass the President's timeframe and analysis. It is hard to believe \$10 trillion. I have a hard time even figuring out what trillion means, but it is a lot of money.

I know each American had \$18,000 worth of Federal debt assigned to them when this President came into office. It is \$24,000 now and it will be \$35,000 at the end of the term. We are creating an enormous amount of debt burden on every American as we go forward, and there is a credibility problem. One cannot say they are a fiscal conservative, that they are fiscally responsible, and have this kind of debtload laid on the American people.

There are also other small issues such as the \$140 billion miss with regard to the Medicare prescription drug plan. That is why people are frustrated when they hear about the great news that we had great growth in jobs, which everybody is glad to see, but we do not see it tracking with the reality of the other activities that are going on.

I wanted to make the point that while we are hearing all of this celebration, all of this spinning about how good this is—and again it is good—there were 2.6 million private sector jobs lost, the worst record in history. The quality of the jobs that are replacing the ones that are lost is substantially less in actual real earnings. Real median income earnings last year for the Nation were actually negative for the first time in decades. Massive deficits are occurring at the very same time. We are seeing all of these rising costs on health care, tuition, property taxes, and gas prices in this country.

I think there is a serious credibility problem. We need a new President who will put America first, rebuild our economy, and address the real needs of the middle class and moderate-income elements of our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

## ORDER OF PROCEDURE

Mr. REID. I ask if the Senator would yield for a unanimous consent request.

Mrs. HUTCHISON. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that during the debate time, with respect to the cloture motions today, that Senator BYRD be allowed up to 40 minutes of the Democratic time for the purpose of speaking as in morning business and that Senator DAYTON be allowed 10 minutes. Each side has an hour so this is our time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the 30 minutes of the majority time be equally divided, 10 minutes each, between myself, Senator COLEMAN, and Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask that we be notified when our 10 minutes is up.

## SUPPORTING OUR TROOPS IN IRAQ

Mrs. HUTCHISON. Mr. President, this Friday, April 9, will mark the 1-year anniversary of the liberation of Iraq from the dictator Saddam Hussein and his corrupt regime. It was April 9, 2003, that Iraqis cheered when Saddam Hussein's statue fell in Baghdad.

When we began Operation Iraqi Freedom and as our troops were marching on Baghdad, we started the Senate every single day for at least 30 minutes talking about our troops, what they were doing, the successes they had, and the heartrending problems they faced. We let them know that not 1 day, not 1 hour, not 1 minute passed that we were not thinking of what they were doing for our country.

It is still the case today. Although Saddam Hussein's regime fell 1 year ago today, we are still fighting with the spirit and the heart that is personified by our troops on the ground in Iraq today.

At that time, we all talked about—and it was written in the newspapers and talked about on television—that it did not seem like that infamous Republican Guard had been there. We did not meet them on the way to Baghdad. We did not meet them in Baghdad, at least it did not seem like it. It seemed almost too easy.

This is one person's opinion, but this person believes that when history is written about this war, it will say that we are meeting the Republican Guard right now, that they faded into the woodwork and they strengthened their numbers and they are coming back. They have decided to make their last stand because we have a deadline of

June 30 when we want the Iraqi people to take control of their governance, and we want the people to have a say. We set that deadline.

All of those who do not want freedom and democracy in Iraq, whether they be people who want control inside Iraq or whether they are people from outside Iraq who want to control the Middle East and make sure there is not a working democracy, all of those forces are now coming together against our coalition forces.

This is a very important time in our war on terrorism, and our hearts are with our troops on the ground. Our hearts are with their families right now.

Our hearts are with those brave civilians who have volunteered to go in to help stabilize the country of Iraq and to get an economy going there. We know they paid the price from the horrendous pictures we saw last week. Those volunteers who were trying to serve were not only murdered in cold blood, but their bodies were defiled. We will never forget those pictures, and we will never forget the pictures we have been seeing day after day out of Iraq.

We are here today to say how much we appreciate what they are doing. We are also here to say that every one of those who have died, they have not died in vain because we are not going to walk away from this battle. America will not cut and run and render those great losses meaningless. We will not do it because we have a President who is willing to stand firm in the face of adversity. Our President is supported by troops who are every bit as committed and dedicated as he is to the cause.

This is a very important time. I think it is so important that we should look at what is happening and make sure we are not doing anything which would hurt our cause while our troops are in harm's way.

I have to say I am troubled when I hear leaders say this is another Vietnam. We have troops on the ground in harm's way. Is it really productive for us to be labeling Iraq after 1 year as another Vietnam? Is it helpful to heap criticism on our President? Is it even helpful to be dissecting what happened in the run-up on the war on terrorism that began on September 11, 2001? Is it helpful to be saying who is at fault for bad information? Was it the Clinton administration or the Bush administration? Or was it before that? Is that what we ought to be talking about right now? I don't think so.

I think what we ought to be talking about right now is how we can come together as a country and make sure everyone in America understands the importance of this cause; that we support our Commander in Chief, and that we support our troops on the ground.

I have been to Iraq. Mr. President, you have been to Iraq. Our Commander in Chief has been to Iraq. We know a little bit about what it is like. We don't know everything because we are

not there when the bombs go off. We are not there when the missiles are launched. But we have been there, and we know our troops are the best. They are committed. They are doing exactly what needs to be done to stabilize this country.

It is not going to be easy. But the one thing we must all do is be committed to the proposition we can't fail, and dividing our country in half over who was responsible for faulty intelligence is one way we could fail.

What we need to be doing is uniting our country. This is America's challenge. This is our coalition's challenge, that we will stay the course. We will make sure a constitution is in place in Iraq so the people who have been oppressed for so many years, so the girls in Afghanistan who have been abused and uneducated will have the chance for lives all of us dream for our children to have, so the people in Iraq who were raped, tortured, and mutilated by Saddam Hussein and his regime will no longer have to fear that kind of treatment because they will be in control of their own destiny. We will be there with the security to help them see this through.

What we need right now is a united country, not a country sniping at our President, whether it is on the Senate floor or out in the field.

My time is up. But I think it is not productive for us to be divisive at this point. We need to be united in support of our Commander in Chief and our troops on the ground.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

#### THE ECONOMY

Mr. COLEMAN. Mr. President, my colleague from Texas noted we need a united country. I want to briefly respond to my colleague from New Jersey who talked about the economy before I talk about the situation in Iraq.

We had great news: 308,000 new jobs were created in March. Yet my colleagues from across the aisle say, Great news, but; they talk about all the celebration, but; and all the spinning, but. But there is no spinning about 308,000 jobs. The spinning is in the light of good news at a time which we should celebrate.

Americans are worried and concerned about their economic future and job growth and opportunity. We have good news. Why can't we simply be united? Why do we have to take the "Chicken Little" approach and say "the sky is falling, the sky is falling"? We have 308,000 new jobs, but; Pell grants have risen, but; 308,000 jobs, but. We have challenges in Social Security; 308,000 jobs, but.

The reality is not only 308,000 jobs in March, but the Labor Department went back and recalculated the job growth in January and February. What we have is 500,000 jobs over the last 3 months.

Why can't we come together for a moment and try not to create darkness out of light? Why do we have to dim the hopes of the people of this country? Confidence makes a difference. Our economy runs on confidence. We should have confidence based on the facts, and based on all the evidence that has been there for many months about manufacturing growth, investment, and about consumer spending, and now about job growth. Why do we have to spin and twist and turn and create dark clouds for political purposes? I hope we can do better.

#### IRAQ

Mr. COLEMAN. Mr. President, I come to the floor today with many mixed emotions and with a firm conviction. Foremost among these emotions is a deep sympathy for the families who have lost loved ones during the recent surge of violence in Iraq. I believe there were 32 deaths of our servicemen in the last 96 hours. We lost one brave marine over the weekend who is from Minnesota. My thoughts and prayers are with his family and with others.

America will forever be in the debt of the brave men and women who volunteered. Every man and woman in uniform in Iraq and Afghanistan is a volunteer. Many have made the ultimate sacrifice. It is with a heavy heart I reflect on that. But my prayers are with them and my thoughts are with them. My admiration is with them, and the thanks of every Minnesotan and every American is with them for their sacrifice and their courage.

I am of the Jewish faith. We just celebrated the Passover tradition, celebration and commemoration of Israel's deliverance from Egypt and from slavery almost 6,000 years ago. One of the things about that holiday is in that service we have a dinner which is a ritual dinner, and we celebrate. We thank God for deliverance. But in that service we also talk about not only ourselves; it is not enough that God delivered us from slavery, but we need to exert ourselves in the deliverance of others. I think that is more than a Jewish tradition. It is more than an American President. Our President reminded us it is a universal principle; that freedom is not America's gift to the world, but it is God's gift.

This is also a solemn time to remember the genocide in Rwanda 10 years ago when we as a Nation stood by and over 1 million people were slaughtered.

This is the anniversary of the fall of Baghdad for which the whole civilized world should rejoice. It has been a year without new mass graves being filled. A half million Iraqis were slaughtered by Saddam Hussein, by the brutal tyrant. It has been a year in which the torture chambers and the rape rooms are now silent. It has been a year when the wealth of Iraq, a nation with millions of poor people, has not been plundered to sustain the obscene decadence



of a sadistic dictator and his maniacal sons. It has been a year that kids returned to school and teachers actually got paid, hospitals reopened, and food and water restored. It has been a year in which clear intent to threaten the region and the world has been stopped.

The violence in the last several days has been grievous, but it only stands to confirm the truth of what America has been committed to for the last 3 years: the choice of this state for the uprising in terms that we were battling the remnants of a regime we went there to destroy.

The attacks in Spain a short time ago confirm our conviction that Iraq is a battle in the global war on terror. Why else would terrorists target Spain, except to undermine our coalition?

Let us never forget that terrorism at its heart, at its evil heart, is a psychological war. It endeavors to break the spirit and the resolve of those it attacks by creating a lose-lose situation. It uses deadly force. By using deadly force it creates a dilemma for its enemy. To not respond validates those attacks. To respond in kind, they believe, will create further unrest and cause for the next round of attacks. Our resolve is what they are attacking. We must show them no hint of resignation.

I must say, I felt a great sense of remorse over comments made yesterday by Members of this body who raised the specter of Vietnam. I will be direct: To raise the specter of Vietnam as 10 families learn of the deaths of young sons is regrettable. To attribute a political motive to the President's June 30 deadline to return control of Iraq is extreme. I know the target audience of these comments, but its unintended witnesses are those we fight against today in the global war on terror.

Am I the only person struck by the absurd irony of the last week's national debate? On the one hand, the President is being roundly criticized by those claiming he failed to act aggressively prior to September 11 and used only diplomatic efforts to combat terrorism. And, in almost the same breath, he is criticized for being far too aggressive after September 11 and not relying upon diplomacy enough. So he was supposed to be tougher on terror before the attack and easier afterwards? It is hypocrisy.

We have an all-sports radio station in the Twin Cities that pokes fun at itself by saying it is "the home of the best second-guessing." I don't think it can match this town of late. It is intellectually dishonest to look backwards with all the facts and judge the decisions that were made with almost none of the facts, or the facts that existed hidden in the normal cloud of endless speculation of what might happen. To compare perfect hindsight with imperfect foresight is unfair. The American people understand that.

I have heard the story about a woman who wrote many letters of advice to President Lincoln during the

Civil War, giving him direction she received in a prayer of who to attack and who to defend, which general to keep and which to fire. Lincoln replied something to the effect: Don't you find it curious that the Almighty gave you all the answers and gave me the job?

It is easy to second-guess. It is easy to criticize, particularly in a political season. But to lead is something altogether different. The leader must live in the real world of the price that might be paid for the goal that has been set. Our young men and women are on the line today defending freedom, fighting terror. We are having discussion and debate about an April 30 deadline. One can raise questions about the plan. We should discuss that. But to call it arbitrary and unilateral, knowing there is an expectation of the Iraqis that we need to turn over political power—not leave, not cut and run. We are still in Germany 50 years later, in Kosovo, in South Korea, not to cut and run—hand over, get rid of the specter of occupation, which is what the international community wants. Yet there are those today who will criticize that second-guessing because you need something to second-guess. It should not work that way.

America awakened on September 11 to a harsh reality. After a decade of talking tough, diplomatic efforts, occasionally sending a cruise missile to blow up a factory, or camp in the desert and hoping terrorism would go away, we were brutally attacked. Our good will, our love of peace, and our broad oceans did not protect us. As much as some may want to return to the illusory sense of security we had before September 11, we cannot. Giving people false hope is the antithesis of leadership.

The prior judgment of those who attacked us was that America was weak, that we were corrupt, that we were divisible. The destruction of the Taliban in Afghanistan was lesson No. 1. They were wrong. The invasion of Iraq and the fall of Baghdad was lesson No. 2. The attempt to secure peace in Iraq is lesson No. 3.

The terrorists are making up their minds what we are made of. They tested the Spanish. They tested the British. They will test the Russians, the Poles, the Italians and every other nation that has been participating in the coalition and the multilateral effort to put Iraq back on its feet. No doubt they will test us. We will meet that test. We will show resolve. We will not cut and run. Terrorism will be defeated. Freedom will prevail.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I salute my colleague from Minnesota for his strong leadership on this issue and his great insight into what is happening today in a very complex world.

As I listened to the news yesterday and today and read the newspapers this morning, we are reminded again of several things. First, we are reminded of what a difficult and complex world it is

in which we live. It is a world where we who want to be a peaceful nation and see peace throughout the world once again realize the type of peace we hope for and pray for may be a long and difficult road ahead.

We understand, also, from the standpoint of sacrifice, nothing comes easy. We are reminded once again that the freedom this Nation enjoys came at great sacrifice. We are seeing sacrifices around the world today, particularly of our brave men and women who are fighting for the freedom of the Iraqi people.

As I think about that and I think about what is going on in Iraq today and what is happening to an overwhelming majority of the Iraqi people who want to see peace and who want stability in that country and they are having to deal with a small number of insurgents who want to carry the day by using guns and violence, it disturbs me when I hear statements made by politicians in America, politicians who aspire to higher office, as well as politicians who have been in the realm of politics in our country for many years, statements that tend to incite the opposition and to put our men and women in greater harm's way.

When I was coming along as a young man, I played a lot of athletics. I have had the privilege of coaching Little League basketball and baseball for 25 years. When you play athletics or when you coach athletics, you want to be inspired as an athlete and as a coach. You want to inspire the opposition. Frankly, the statements I have seen in the last 24 hours relative to the comparison of Iraq to Vietnam are the type of statements a coach would take and plaster on the locker room wall when he wants to charge up his team and he tells the opponents, Look what is happening on the other side. Morale is decaying. We are winning.

That is simply the type of statement that is foolish and should never be made by anyone in the political realm in our country in a time of great crisis and great confrontation over the issue of freedom and democracy.

America has long been the leader of the free world. But we did not get there in an easy way. Likewise, Iraq is not going to get there in an easy way. No one ever said it would be easy making a democracy out of a country the size of California, that has no democratic traditions, is divided sometimes by religious and ethnic disputes, and has a history of internal repression.

When I think about our great country and the fact that a little over 225 years ago we declared our independence, what happened in our country when the citizens of America became free, it was not easy. We had great loss of life in order to ensure that America became free and independent. When we look at what has happened in America over the course of that 225-plus years, we have suffered great loss of life of brave men and women who fought for a cause, a cause of freedom and a cause



of democracy, the simple cause of freedom that is being fought for in Iraq today.

America is providing the kind of leadership the world respects and the world has come to understand; that it is what America stands for. When Americans provide that kind of leadership, it is incumbent on all Americans to rally around the leadership of this country in times of great crisis in the world, when we are the leader of the free world, and not to try to incite the other side, not try to create a more difficult position for our brave men and women in the military, who today continue to be in harm's way and continue to suffer loss of life.

Speaking of that, I concur with my friend from Minnesota, our hearts go out to the families of those brave men and women—all 600-plus—who have suffered loss of life in Iraq as a result of their fight for the cause of freedom. In addition to that, we have a number of men and women who have been injured; and, again, it is for the right reason.

I had a great privilege about 2 weeks ago of visiting a number of military bases in my State. One of the bases I visited was Fort Gordon, GA. At Fort Gordon, right outside of Augusta, we had a tour of the base, the usual things that we do to see what is going on with respect to the missions at Fort Gordon. At the end of the day, I had the opportunity to participate in a very unique ceremony. It was a reenlistment ceremony, where 17 men and women were reenlisting in the U.S. Army.

Some of these men and women had been longtime members of the Armed Forces; some had only been in for a couple of years, but they were re-upping. Some of them had been to Iraq. Some of them had seen their fellow soldiers fallen to the ground injured or killed. Yet here they were raising their right hand and reenlisting in the U.S. Army.

I had the opportunity to visit with every single one of them, and for the most part, I asked the same question to each of them; and that is, Why are you doing this? Why are you reenlisting in the Army in these difficult times? I felt so great, No. 1, just to be in the presence of those true American heroes; but secondly, the response I got, in unison, from those individuals was that: I like my job. I enjoy what I am doing, and it is my opportunity to do something positive for America.

The ones who had been in Iraq had a very high morale about what is going on over there because they are the ones who were on the ground every day in Iraq. They know the feeling of the majority—the overwhelming majority—of the Iraqi people. They support the freedom and democracy that America is making the sacrifices for.

Some say this administration underestimated just how difficult and complex the job in Iraq would be. I will be honest, I have come to share that view. I think the administration would agree with that. But I believe, therefore, we

need to learn from our tactical mistakes, and to ensure that our posture in Iraq is flexible and can adapt to fluid and developing circumstances. If this means finding new ways to ensure Shiite grievances are heard, so be it, as the cooperation of the Shiite majority in the transition ahead is essential to that transition success. But the CPA must also respond aggressively to aggression of any kind that is directed against our troops.

In talking about what we anticipated or what the administration expected in Iraq, let's talk also about some of the things we did not expect. We did not expect for clerics in that part of the world to come forward, and instead of preaching religion that you would expect them to be preaching, to be preaching and advocating hatred and violence towards Americans—Americans, who had given them the opportunity to stand in that mosque and express the words they were expressing, because without the Americans taking down Saddam Hussein, they would not have that freedom, they would not have the ability to carry out their disruptions and the violence that is ongoing over there today.

But removed from that, and behind the cloud of those robes of religion, clerics are hiding, and they are also hiding behind innocent women and children and shielding themselves by use of innocent people from the Americans who seek to arrest and prosecute them for the crimes they have carried out. Those are the types of things that no administration could anticipate and no administration should have expected when we freed the people of Iraq from the regime of Saddam Hussein.

There is one other aspect of the situation in Iraq that is just as personally, if not more personally, troubling to me; and that is the issue relative to our lack of intelligence gathering, the lack of the ability to use human assets on the ground inside of Iraq, to make sure we find out what is going on among these radical clerics who are advocating violence; what is going on with respect to the terrorist community and the terrorists themselves relative to attacks against Americans; what is going on with respect to the long-term plans of these terrorists as it applies to the American service people, as well as civilians who are on the ground in Iraq.

We are not doing the job of gathering intelligence that we need to be doing. As a member of the Intelligence Committee, I assure you, we are doing our oversight. We are going to be critical where we need to be critical because this is a phase of this war that must improve. We are going to do our job and make it improve so the people of Iraq will ultimately be free, the world will be safer, and America will be a safer country.

I yield back, Mr. President.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2207, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (S. 2207) to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

The PRESIDING OFFICER. Under the previous order, the next 2 hours shall be equally divided between the two leaders or their designees.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, we now return to the issue of how we make health care more affordable and accessible to the American people. This bill will try to reduce the liability, the insurance costs of doctors who deliver babies and doctors who work in emergency rooms, making the practice of those different disciplines more attractive to doctors and allowing, therefore, especially women who are having children more access to doctors. Especially in rural areas this is a huge problem because so many OB doctors have had to give up the practice of medicine because of the cost of their liability insurance. We return to that bill.

UNANIMOUS CONSENT REQUEST—H.R. 633

But before we go on to that bill, I think it is important that we address other legislation that could also significantly reduce the cost of health care in this country and improve its delivery. One such piece of legislation has been reported out of the committee which I have the privilege to chair, which is the Health, Education, Labor, and Pensions Committee. It was reported out unanimously—unanimously. It is the patient safety bill, and it basically is structured so that it does, for example, make information as to how errors occur within the medical profession more available within the medical profession so people in the medical profession can learn from these errors.

Today, regrettably, if you have an experience of doing a procedure inappropriately, having a medication which is inappropriately applied, or having an operating room that may not be set up correctly, and as a result errors result from that type of activity which lead to injury or problems for patients, that information is kept very close. It is not made available generally to the medical profession for the obvious reason that they will be sued.

What this bill does is essentially try to create a better atmosphere for allowing that information to be shared

and, thus, reducing medical errors. We know, for example, that there is a huge number of people in this country every year who are impacted by medical errors and that there are 98,000 preventable deaths that occur as a result of medical errors. This information would significantly reduce those occurrences by allowing this information—the information of how these errors occur—to be shared within the medical community.

It would create a system for voluntary reporting of medical errors. It would establish Federal evidentiary privilege and confidentiality protections to promote the reporting of medical errors. It would produce better procedures, interventions, and safety protocols for eliminating errors and improving quality of care. It would permit safety data to be shared and disseminated nationally so other caregivers can learn from mistakes that have occurred without the fear of litigation.

It is excellent legislation, such strong legislation, in fact, that it was reported unanimously out of the committee which I have the privilege to chair. Yet it has been stopped on the floor for reasons I find difficult to understand. I know it has cleared our side of the aisle, that the Republican membership is willing to move on it. In fact, we are willing to move on it by a voice vote on this side of the aisle.

At this time I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 633, the Patients Safety Act, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Mr. President, I agree with the chairman of the committee. The committee has done a tremendously important job on this bill. It is something we need to do.

As indicated, this patient safety bill—I should say as indicated by the chairman—is something that is so vitally important. There are news articles about the fact of patients not being treated properly. One of the reasons is simply we don't have information from various institutions as to what has happened.

To make a long story short, we have a bill before us. There is an amendment. We have had a couple of Members on our side who want to simply look at the amendment. I am confident this is something that can be done in the near future. I look forward to working with the chairman and the other members of the committee to make sure we can move this as quickly as possible. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GREGG. Mr. President, I would inquire of the assistant leader of the Democratic membership if there is a timeframe when we could bring this bill to the floor.

Mr. REID. I will meet sometime or visit with the ranking member, Sen-

ator KENNEDY, later today and try to get a timeframe. I think we can do this fairly quickly.

Mr. GREGG. That would be excellent. I appreciate the response of the Senator from Nevada.

Mr. REID. If the Senator will yield for a unanimous consent request, we have 10 minutes left on our side on the debate on the cloture motion. I yield that final 10 minutes to the Senator from Illinois, Mr. DURBIN.

Mr. GREGG. Mr. President, I have the floor, correct?

Mr. REID. We are just giving our final 10 minutes to the Senator from Illinois. Forty minutes to Senator BYRD, 10 to Mr. DAYTON, and now we are giving 10 minutes to the Senator from Illinois.

Mr. GREGG. At this time, I yield to the Senator from Nevada such time as he may consume.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I thank the chairman of the HELP Committee for the work he has done to bring this legislation to the floor of the Senate, trying to get an up-or-down vote, or just trying to proceed to debate this bill.

For those people around the country who do not understand the way the Senate works, we have to have 60 votes to proceed to the bill on reforming our medical liability system. We have to have 60 votes to go to the bill, to amend it, and then to vote it up or down. It is a shame the Democratic side of the aisle is not even allowing us to have an up-or-down vote on this incredibly important legislation.

Today 19 States across the United States are in full-blown crisis, according to the American Medical Association, regarding medical liability. Only six States are stable because of the reforms they have in place. OB/GYNs, emergency room physicians, and trauma doctors are the hardest hit, but they are not the only ones. From 1982 to 1998, the average premium for OB/GYNs rose 167 percent. In 2002, the average premium for emergency room physicians rose by 56 percent. In Las Vegas, OB/GYNs have seen a 300- to 400-percent increase in their premiums as of late. Three years ago they paid around \$40,000 a year; now they pay upwards of \$200,000 a year.

To help curb the cost, OB/GYNs are limiting the number of babies they deliver, and some of them are no longer delivering babies at all and are only practicing gynecology. In fact, many of them are leaving our State altogether.

This crisis has now grown to affect our students in medical schools across the country. Nevada is really suffering because it is the fastest growing State in the country. Medical students are now avoiding high-risk specialties. Nevada's school of medicine had the lowest number of students entering obstetrics it has had since 1999. That number has decreased every year since 2000.

Nationally, half of all medical students indicate the liability crisis is a

factor in their choice of specialty. For osteopathic students, the numbers are even worse. Eighty-two percent say cost and availability of insurance will influence their specialty choice. Eighty-six percent say cost and availability of insurance will determine where in the country they practice. With doctors leaving practice and no more entering the field, patients are suffering and will suffer more in the future.

Patients are what this debate is all about—not doctors or lawyers. Patients can't find access to care when they need it. For example, Nevada's only level I trauma center closed for 10 days in 2002. The center serves trauma victims over 10,000 square miles—in Nevada, parts of California, Utah, and Arizona. In 2002, this trauma center cared for 11,600 patients. Mainly, these patients suffer the most traumatic injuries such as severe car accidents, knife and gunshot wounds, and brain and spinal cord trauma.

This closure cost Jim Lawson his life on July 4, 2002. We have a picture of Jim. Jim lived in Las Vegas, and was just 1 month shy of his 60th birthday. He had recently returned from visiting his daughter in California. When he returned, he was injured in a severe car accident. Jim should have been taken to the university medical center's level I trauma center, but it was closed. Instead, Jim was taken to another emergency room to be stabilized and transferred to Salt Lake City's trauma center. Tragically, Jim never made it that far. He died that day due to cardiac arrest caused by blunt force from physical trauma.

Why was Nevada's only level I trauma center closed? Simple fact: There were not enough doctors available to provide care. There were not enough doctors because of skyrocketing medical liability premiums.

How do we know it was because of that reason? It is very simple. It reopened a week later when the State put the level I trauma center under its umbrella coverage where the maximum the State could be sued for is \$50,000. The legislation we have before us caps non-economic damages at much more—\$250,000—but allows recovery of economic damages to be unlimited. Remember, economic damages are for lost wages, medical bills, etc.

We have cases in California, where a law is in place that is almost identical to the legislation we are talking about today, where patients have been awarded millions of dollars in compensation. It is the out-of-control jury awards across the country that are dramatically raising our premiums.

I want to emphasize again, the level one trauma center in Las Vegas was reopened because the State of Nevada took it under its wing and said: We will protect any of the doctors who work there with a maximum liability coverage of \$50,000 in damages.

Opponents on the other side argue that injured patients won't get what

they need financially if malpractice occurs as determined by a jury. Let's remember that patients can recover damages in three different ways under our bill, and in only one case, non-economic damages, are we placing a distinct limit. Economic damages would be unlimited and punitive damages are available in the cases of gross malpractice. This bill would create strong medical liability reform where patients can actually get the kind of compensation they need and they can get it sooner because they can navigate through the courts much faster. Undoubtedly, the courts will work a lot more quickly because there won't be so many frivolous cases clogging up the civil justice system.

The cases we hear about, whether it is in the trauma centers or because there are no OB/GYNs available, are tragic. It is the patients who are being hurt every day. The other side says they are trying to stand up for the little guy—the little guy who gets hurt because of medical malpractice. And we definitely should stand up for those people because there are some very tragic cases.

Without a doubt they deserve just compensation. Unfortunately, our system has swung out of balance. It is too easy to sue these days because the threat of a lawsuit and the cost of that lawsuit is so exorbitant that medical providers and their insurance companies often settle out of court. It is an absolute fact that providers and their insurers settle even in those cases they probably could win just because of the enormous expense and time.

Adding to this broken cycle are these so-called "professional witnesses," for lack of a better term. When I say professional witnesses, I mean physicians who no longer are practicing. Some have practiced a little bit, but they all of a sudden become experts in fields they never practiced in. Our legislation says if someone is testifying as an expert, they need to be an expert in the field they are testifying about. In other words, you don't want somebody who is a family doctor testifying in the case that involves a pediatric neurosurgeon. You want somebody who is a specialist in pediatric neurosurgery and knows about the ins and outs of that specific practice of medicine.

Again, this legislation would allow those people who actually have had medical malpractice inflicted upon them to get through the court system faster, so maybe the ones who are truly hurt will get the compensation before they die. For many today, because the courts are so clogged up, it takes 6 to 10 years to get through the court system, and many of them die before they ever get compensation. Talk about a tragedy. So if people really want to stand up for the little guy and they want to say I want to fight for the little guy—if they want to fight for the person who actually gets hurt, let's pass legislation that allows the cases to get through the courts in a much more expeditious fashion.

Another benefit of this bill is most, if not all, of the reforms it contains will help lower the cost of health insurance in this country for everybody, so hopefully we will have more people with health insurance. If the costs are lower, more people can afford it, and we will have fewer uninsured in this country.

How many more doctors do we have to lose in Nevada and other States? Do we really want people who are not as qualified to go into some of these specialties? Do we want to start scraping the bottom of the barrel, or do we want the best and the brightest to go into these specialty fields? They always have in the past. Now they look out there and say, you know what, I am not going to be able to afford to practice. Why would the best and the brightest go into it when they say, I am going to go to 4 years undergraduate, 4 years medical school, and then I am going to do anywhere from 3 to 8 years, depending on the postgraduate training that is required in the specialty field, before I start making decent money. What people don't realize is even after these students graduate from medical school, they might make \$30,000 to \$40,000 doing "slave labor," working 100 hours a week, while they are learning their particular field of study.

We want the best people who are willing to sacrifice all of those years and all of those hours of hard work to be able to go into those fields. At the end, yes, they should be rewarded economically, just as anyone who works hard toward entering a specific field of work. But many of them will not do it for the simple fact they are not going to be able to afford the medical liability premiums. That is why it is so critical we pass medical liability reform.

Today, we have before us a bill we have limited to provide relief to two specialties. It only covers OB/GYNs and professionals involved in the practice of emergency medicine and/or trauma medicine. We have limited it to highlight two of the most high-risk and the most severely affected areas in our health care system today.

If you don't like portions of the bill and want to change it, fine. Let's have a healthy debate and amend the bill. Let's take amendments one at a time and amend the bill and then come out with a product that will actually fix the problems we have in this country. Right now the other side, the Democratic side of the aisle—it almost boggles my mind some of the points they argue against this bill—but they won't even let us have the bill brought to the floor where it can be amended. They won't let us have a fair debate where we can amend this bill. Sadly, they are obstructionists on so many pieces of legislation this year. But at least on the other pieces of legislation that they are obstructing they are not costing lives. On this legislation, they are costing lives. Unfortunately, more and more lives will be lost in the future.

When there are not enough doctors to treat patients, it costs lives.

The providers covered in this bill—OB/GYNs, ER and trauma doctors—if they are not available to care for patients, people are going to die. People are going to end up in a situation like Jim Lawson's who, as we showed earlier, needed the kind of specialty care only a trauma center can provide. Right now, the doctors are not there to be able to give the patients the kind of care they need. We have to ask ourselves, what if it were one of our loved ones—not ourselves, but one of our loved ones? For instance, down in Florida, Dr. Frank Schwerin's son was injured. He is an internist. His son is a 4-year-old named Craig. Craig struck his head on the side of a swimming pool. Within minutes, he became lethargic and began to vomit. He was rushed to North Collier emergency room. The ER physician paged the neurosurgeon on call. Unfortunately, neurosurgeons in Collier County were not able to treat pediatric patients because they were too high risk. The nearest pediatric neurosurgeon was 150 miles away. In neurological trauma, every minute counts. After an hour or so of receiving what care he could, Craig was eventually stabilized. But not every child is that lucky. No parent should have to go through that wondering, does my child have the best care they can get, simply because the specialist left their area because the medical liability premiums were too expensive. I cannot tell you how many doctors who are in this situation. By the way, it is not only doctors. We are also talking nurse-midwives, EMTs, emergency and fire personnel, you name it. Throughout the health care provider system, people are affected by the out-of-control medical liability costs. But the physicians I have talked to, anecdotally, in story after story, say people were sued for the first time in their life in a case they may have had very little to do with. They walked in, gave only a consultation to another physician who was the primary doctor on the case, and then they are sued because malpractice was committed somewhere down the line by someone else on the case. Even though it had nothing to do with them, they now have to spend literally thousands of dollars defending themselves.

The system is broken. It is out of control. Our system of justice swings like a pendulum. Right now, it has swung too far in one way—in the trial lawyer's favor. We have to bring it back in favor of the patients. The patients need to come first. That is what we are talking about today in this legislation—putting patients first instead of trial lawyers.

Mr. President, I will conclude with this. I want to talk about the States that have enacted reforms versus the States that have not. I wish to give a couple of examples to put this in dollar terms so people can get their arms around it.

This chart explains it very clearly. First of all, this is an example of internal medicine, general surgery, and OB/GYN. I will focus on the OB/GYNs to keep it simple because they are affected directly by this legislation.

L.A., Denver, New York, Las Vegas, Chicago, and Miami are listed on this chart. The population shares are relatively similar. This shows the medical liability premiums in the various cities. This is a 2002 survey. Mind you, the cities with the problems are in much worse shape in 2004 than they were in 2002.

An OB/GYN pays about \$55,000 a year in L.A., and around \$31,000 a year in Denver. California and Colorado are two States that have had good medical liability reforms passed at the State level, and these reforms have been in place for several years. If we go to New York, Las Vegas, Chicago, or Miami—take your pick—none of these States have good medical liability reform passed. In New York, they are paying \$90,000; \$108,000 in Las Vegas. That number is way low. At a minimum it is \$140,000. Chicago, \$102,000, and Miami is over \$200,000 a year. That is why doctors are leaving their practices.

One can say doctors make so much money that they can afford this. The average OB/GYN in Las Vegas makes around \$200,000 a year. When \$108,000 is going for medical liability coverage, you can see there is not very much left for the provider. You raise this up to \$140,000, \$150,000, \$160,000, as many are now experiencing in my state, and there is not a lot of room left. I would also mention that with the way these doctors are getting paid at fixed rates, through managed care, Medicaid, and the like, there is not a lot of room left to afford rising premium rates. The fact is they are leaving the practice or they are limiting the amount of babies they deliver simply because they cannot afford to deliver babies. In the fastest growing cities and metro areas, that is unacceptable.

This chart shows California versus U.S. premiums from 1976 to 2000. California has the model legislation we all look at. These are the premiums. This is California, the blue line, which is very stable. There has been an increase of about 167 percent over that time, a little more than inflation, but pretty close. Look at it for the rest of the country: 505 percent.

Is medical liability reform working in California? I think the answer is pretty obvious that it is. We need a national solution. We need to say to the trial lawyers: Listen, we respect the fact you went to law school and you want to make a lot of money, but I think the system has been abused enough. It is time to put the patients first.

Let's vote for cloture today. Let's get the 60 votes needed to at least go to debate on the bill. And if my colleagues do not like the provisions of the bill, let's amend it. Let's have up-or-down votes on amendments. Let's get to

final passage where we can actually correct what is wrong with the health care system in the United States by eliminating abusive lawsuits, outrageous and unwarranted jury awards, and out-of-control medical liability premiums.

I yield the floor and reserve the remainder of our time.

#### ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the 10 minutes already allocated to me be increased to 20 minutes and include the time previously allocated to Senator DAYTON of Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I thank the Senator from Minnesota for yielding me the 10 minutes so I might speak to this important issue this morning. I thank the Senator from Nevada for illustrating to us a serious challenge that faces America. There is no doubt in my mind, nor in the minds of those who studied this issue nationwide, that we need to do something as a nation to deal with medical malpractice liability.

It is clear that in many parts of our country, in many parts of my State, the cost of medical malpractice insurance has gone up dramatically, to the point that some doctors are moving to other States and some are retiring. That is a reality. It is a reality in Illinois. It is a reality in other States. I believe we need to do what is necessary on a bipartisan basis to grapple with this issue.

Although it will be the first time in history the Federal Government would take on the question of civil procedure and medical malpractice cases in States, frankly, it may be the only way to approach it. So I agree with my colleagues on the other side of the aisle that inaction on our part will only make this problem worse. We need to move forward. But I come today to tell you the bill before us, S. 2207, is not the right approach.

I encourage my colleagues on both sides of the aisle to look at this bill carefully. I hope they will view, as I do, this bill as an honest attempt to identify a problem but a very inadequate attempt to solve it.

Let me say at the outset that a lot has been said about emergency rooms, which are covered by this bill. Some has been said about OB/GYNs delivering babies, and that is covered by this bill. But the sponsors of this bill have not mentioned the fact that it also exempts from full liability drug companies, medical product manufacturers, insurance companies, those who make vaccines that cause problems for children. They are also included in this bill.

So much has been argued about the doctors in the emergency rooms, but

the full scope of the bill has not been described, at least as long as I have been on the floor.

Let me tell you what I think is wrong with this bill. Here is what the bill says: The bill says in cities and communities across America where we rely on a jury of your neighbors and friends to come together and decide what is fair and what is just, when it comes to those lawsuits involving injuries, coming out of, for example, an emergency room treatment, no longer will a local jury decide. The case will be decided on the floor of the Senate. One hundred Senators will decide today with this bill that regardless of what happens to you or your child when you go to an emergency room for treatment, regardless of the possibility that you brought your child in as an innocent victim seeking medical care at an emergency room, and that child, the love of your life, became the victim of medical malpractice, regardless of the circumstances, we will decide on the floor of the Senate, if that child is facing a lifetime of disability, a lifetime of disfigurement, a lifetime of pain and suffering, we, the jury of the Senate, will decide it will never be worth more than \$250,000 for the pain and suffering, for the disfigurement, for the incapacity they will face. That is what the bill says.

When you look at it you think, why? Why would we decide that regardless of the lawsuit, someone could never receive more than \$250,000 for pain and suffering, for noneconomic losses? The argument is, unless we put a cap on the possible recovery in a lawsuit, malpractice premiums will continue to rise and doctors will not be able to afford them. That is the premise. That is the argument of this bill.

So the first thing I would like to do is question that premise. Let's look at the facts.

Here we have OB/GYN insurance premiums in States with caps, with limitations on the amount a jury can award, and without caps. In California, with caps of \$250,000, called for in this bill, we see a 54-percent increase in the year 2003 in medical malpractice premiums; Oregon, with no caps, 0 percent increase; California, a 15-percent increase versus the State of Washington, 0 percent; Colorado, a 29-percent increase where they have caps and limitations on jury verdicts, and in Georgia with no caps, a 10-percent increase; New Mexico, with caps on how much the jury can award, a 52-percent increase in malpractice premiums; Arizona, right next door with no caps, no limitations, only a 14-percent increase.

So the argument that caps will bring down premiums is illustrated here to just be wrong. The premise is wrong. The argument is wrong.

Take a look at the premiums and what has happened in States without caps between 1991 and 2002 and those with limitations on jury verdicts.

Arizona in this period of time of 10 or 11 years, 3-percent increase; New York,

6 percent; Georgia, 8 percent; Washington, 27 percent. These are States without caps. Then take a look at the States with caps, with limitations on jury awards, 50-percent increase in California; 60 percent in Kansas; 82 percent in Utah; 84 percent in Louisiana. The argument is made—and I heard it on the floor this morning—that it is because so much is being paid out in terms of verdicts, and that is why premiums have gone up.

There is little or no correlation between the amounts that are paid out in verdicts and settlements and what happens to premiums. One would think there would be a direct correlation, but look at this situation. The State of Hawaii, a 527-percent increase in 10 years in the amount paid out in medical malpractice suits, a 10-percent increase in premiums; Iowa, a 87-percent increase in payouts, a 12-percent decline in the premiums charged. The case is illustrated and goes on.

The point I wish to make is if the premise of this law is establishing caps will bring down malpractice premiums these two things we can be sure of: There is no evidence to support it in many of the States with the strictest caps and, secondly, if there is any benefit to be realized by establishing caps it will be years before it is realized. That just reflects the fact that lawsuits filed for malpractice are filed years after the event occurred. Frankly, if there is any benefit to be realized, doctors and hospitals today will not see it for a long time.

The second thing that I think cries out to be said when it comes to capping what a jury can award in a case involving medical malpractice is the fundamental injustice involved in this. Here we have to go beyond the theoretical, beyond the statistical, to the real world of what happens when people show up at emergency rooms for treatment.

This is a beautiful young girl, Shay Maurin, from Hartford, WI. She was the victim of medical malpractice. On March 5, 1997, her mother took her 5-year-old daughter Shay to a local clinic because she thought something was wrong. She was not sure what it was. The physician's assistants at the clinic thought Shay might have diabetes but did not perform any tests.

The mother then took her daughter to the emergency room, where she told the emergency room doctor that the clinic thought this little girl might have diabetes and maybe that was why she was sick. She was 5 years old.

Although her daughter was exhibiting signs and symptoms of diabetes, the emergency room did not administer the standard finger-stick test, the basic test that people suffering from diabetes go through regularly to monitor their blood insulin. Instead, this little girl and her mother were sent home from the emergency room.

This little girl died of diabetic ketoacidosis the following afternoon. That occurs when a person who has dia-

betes is not treated with insulin. The body's blood sugar builds up to extremely high levels. The body cannot metabolize what the person eats. The body becomes severely dehydrated. Acid buildup occurs, leading to swelling of the brain and death.

The emergency room which failed to administer the most basic test, after being told by the mother that they suspected she was suffering from diabetes, was found 88-percent responsible for her death and the clinic 12-percent responsible. If we pass this bill, we have decided that the jury of the Senate would say to this little girl's family: The maximum you can recover for the losses and pain and suffering for this little girl is \$250,000.

Let me tell my colleagues a story of another young girl. This beautiful little girl is Lauren Meza. On January 2, 2000, Jennifer Meza took her 2½-year-old daughter Lauren to the emergency room at the recommendation of her pediatrician.

The baby's symptoms indicated that she may have had pneumonia. The child's father was being hospitalized for pneumonia at the time she developed the symptoms. The emergency room doctor refused to perform any tests, insisting to Ms. Meza that her daughter would be fine and she should go back home.

Two days later, Ms. Meza brought Lauren back to the pediatrician, who was alarmed at her deteriorating condition. The doctor determined she needed immediate emergency care and she was airlifted to another hospital where she was treated for a condition that left her body unable to expel toxic agents and waste products, forcing them into her bloodstream. As a result of the emergency room doctor's denial of care, she is facing dialysis and a kidney transplant before she turns 10 years of age.

What this bill says is that this little girl, Lauren Maza, facing a lifetime of dialysis and ultimately a kidney transplant, would never be allowed more than \$250,000 for any pain and suffering which she sustained because of the clear negligence of the emergency room doctor.

Let me tell my colleagues about a case that involves a person who is somewhat older but illustrates this point again. On January 22, 2000, Barbara Jackson complained of chest pains. Her coworkers thought she might have had a heart attack. They called an ambulance. She is from Melrose Park, IL. The ambulance driver suspected a heart attack, but the emergency room personnel waited nearly an hour to do an EKG. More egregiously, they gave her drugs that actually precipitated the heart attack. The attack was so serious this woman lapsed into a coma. She is now in a vegetative state living with her sister who cares for her every single minute of every day.

Her family believes she is capable of feeling pain. Proper medical treat-

ment, nursing treatment, and rehabilitation will cost more than \$20 million if she lives to full life expectancy, which her doctors expect.

A mistake made in an emergency room, a woman in a vegetative state for the rest of her time on Earth, and the jury of the U.S. Senate has reached a verdict. For pain and suffering, in Barbara Jackson's case, no more than \$250,000.

Not only do caps not work to bring down malpractice premiums in case after case, they are fundamentally unjust and unfair. There has to be a better way. We have to deal with a standard that will bring down malpractice premiums but not at the cost of fairness and justice.

It is a simple fact of life, and one which I wish were not the case, that more and more medical errors are being committed. We cannot expect doctors and hospitals to be perfect. They are human. There are times, unfortunately, when they are negligent, when they do not meet the standard of care which we can expect of every physician and every medical provider. In those instances, they should be held accountable, as all of us are held accountable for our wrongdoing.

That accountability means they should be held responsible for the real problems they create, the damages that are created by their misconduct.

We have had so many surveys of hospitals. A study recently found that injuries in U.S. hospitals in the year 2000 resulted in 32,600 deaths. Some have estimated some 98,000 people die each year from malpractice. Only a small percentage of these cases ever end up in a lawsuit, ever end up in a trial.

We need to address this issue at three levels. First, let us make the practice of medicine safer, and we can do that. Secondly, let us deal with tort reform. I have told my friends who are trial lawyers—and I practiced law myself before I came to the Senate—we have to step up to and accept responsibility for change that will reduce the number of frivolous lawsuits and give those truly deserving their day in court. Third, insurance companies have to be held accountable for their misconduct. If they are gouging, if they are overpricing, then we, as a government, need to stand up to that industry as well.

Three parts: Reducing medical errors, tort reform, and insurance reform are the way to approach it. I say to my colleagues on the other side of the aisle, join me in a bipartisan effort now to go beyond this issue of caps, which will not solve the problem, caps that are fundamentally unfair, and let us talk about real solutions.

Think about this bill that is before us for a moment. This bill says that if one is brought to an emergency room because they were in serious trouble and medical conditions are such that warrant it, they will be limited in how much money one can recover if they are an innocent victim of medical malpractice. However, if one is admitted to

the hospital, through the front door and not the emergency room, these limitations would not apply.

Think of it as well from the OB/GYN point of view. It is true that OB/GYN premiums have gone up astronomically in some areas, and we have to zero in on that, but we are saying someone who is a victim of malpractice by an obstetrician gynecologist will have a limitation on how much they can recover while someone else in the same hospital being operated on by a doctor with a different specialty will not be subject to these limitations. That is just fundamentally unfair.

I think what we need to do is open the door for conversation, but first we need to close the door on this concept. This is not the right approach.

I have met over the last several months with scores of doctors and hospital administrators in my State, and I say to them in all seriousness and sincerity that we have a problem in Illinois, as well as a national problem.

I have invited Members to come to the table after this legislation is defeated today and sit down in an honest, bipartisan fashion to look for solutions that will solve this problem. I believe we can find it.

The Senator from South Carolina who is presiding has joined me in bipartisan legislation that really tries to approach this from a new innovative, creative, and positive point of view that does work. I think we can achieve that goal. But to achieve it we need to bring the medical professionals into the room along with those who are representing the victims of medical malpractice. Once that conversation takes place, if it takes place in good faith, I am confident we can come up with solutions.

I urge my colleagues to vote against the motion for cloture on proceeding to this bill. It has not been subjected to hearings. It includes things which were not talked about on the floor—protection for insurance companies, protection for pharmaceutical companies and medical device manufacturers. Let us get down to the business of trying to solve this problem and doing it in a fashion that is reasonable and effective and bipartisan.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I think we are actually making progress. I am delighted to hear the Senator from Illinois agree with what it sounded like the minority leader stated earlier, that they have some problems with this bill as written, and they acknowledge the problem of medical liability crisis exists and suggest we ought to try to find some way to address that crisis which they concede is very real.

Senator DURBIN said it is not the right approach. My question would be, Well, what is the right approach? Senator DASCHLE said there is no reason to differentiate between those who walk in the front door of a hospital and

those who get emergency care. I will concede the good faith of that question. The problem is we offered that bill earlier and were unsuccessful in getting cloture so we could actually get to the merits of the bill and debate it. Of course, not until we get to that 60-vote hurdle where we can actually move the bill on to the floor can the bill be amended. Indeed, that is how the Senate does its work. But I wonder whether it is the intention of our friends on the other side of the aisle to have a good-faith debate about how to solve this problem.

For example, rather than take what I consider to be the constructive approach the Senator from Illinois and the Senate minority leader have taken to criticize the content of the bill but to acknowledge we have a problem so perhaps we can then get to a solution of that problem, the ranking member of the Senate Judiciary Committee called it a partisan approach and then criticized the Senate leadership. He said, In my 29 years here in the Senate I have never seen so little accomplished.

I think the reason why we are not accomplishing any reform or any real solution to what is a very real problem is because our colleagues on the other side of the aisle simply won't let us call the bill up, have a debate, consider amendments, and try to solve what is a very real crisis in this country.

Even though we are calling this a medical liability reform bill, this is not something we are doing out of the goodness of our hearts for the medical profession. While I respect members of the medical profession who dedicate their lives to curing illness and addressing medical needs, as well as health care providers who run hospitals and a whole host of other allied health care facilities, that is not what drives me to see the need for this bill. The reason I think this bill needs to be passed, or some version of it after amendment if the Senate reaches consensus on a solution to the problem, is because I know everyone within the sound of my voice and literally everyone across the country who is alive today will at some point in their lives be a patient. They will need access to good quality health care.

What is happening today in this country because of this medical liability crisis is denying patients—that is the American people—access to health care they need in order to lead a good quality of life and in order to enjoy life for themselves and their children and their other loved ones.

I want to comment briefly on a suggestion I have heard from our colleagues on the other side of the aisle. They said that with this particular solution—that is a cap of \$250,000 on non-economic damages—people walk away with nothing when they go to court. The truth is, in California, which has a medical liability reform law very similar to what we are proposing here today, economic damages, including

medical expenses, are compensated completely. Indeed, in December of 2002, in Alameda County, there was an \$84 million award to a 5-year-old boy who has cerebral palsy and is a quadriplegic because of delayed treatment of jaundice after birth. That would only be possible because what is actually being compensated there is the very real economic loss suffered as a result of that horrendous injury, something we all regret.

The suggestion we are going to turn people out of court with nothing to show for it and we are not going to compensate people for their injuries received in the medical context caused by the fault of another is not true. I wonder how anyone can stand up and suggest we are somehow trying to deny people a remedy. That is certainly not the case.

We know this kind of law will have a positive impact. Even in the State of Texas, which I represent, where we passed not a \$250,000 cap but indeed a higher cap on non-economic damages last September, we have seen one medical liability insurance company reduce its rates by 12 percent across the board, sort of a start. Another medical liability insurance carrier has cancelled an anticipated 19-percent increase. Obviously, we will see how this all plays out, but we already know it has a very real and positive impact as demonstrated by the evidence.

I see the Senator from Virginia and I want to make sure he has all the time he needs to speak. But I want to also comment on the effect of high medical liability insurance rates on the cost of health care and on the pressure being put on employers and others who provide health insurance to their employees to drop their employees from any sort of health coverage, exacerbating the crisis we have in this country of too many people who do not have access to health insurance and the fact we have many emergency rooms put on divert status with patients being redirected elsewhere in true emergencies because people who do not have health insurance have nowhere else to turn if they don't have money. They know they can be treated in an emergency room. They know they can't be turned away. But the fact is about 80 percent of the people who go to emergency rooms are being treated for medical conditions that could be treated in a clinic or a doctor's office much more cheaply, more humanely, and in a way that would help us address this crisis in access to good quality health care.

Finally, I know we have heard a lot of discussion on the floor of the Senate, as we should, about the concern of every person in this country who wants to work to find a good job so they can provide for themselves and their family. But the cost of health care in this country is killing our recovery. It is doing so from the standpoint of putting increased financial burdens on employers who want to provide health insurance to their employees but simply are

not able to add new positions in their company because they know that in addition to salary they are going to have to pay benefits, including health care costs in many instances, and they are simply priced out of the market.

If our colleagues on the floor of the Senate want to do something about improving access to good quality health care, if they want to do something about the fact many people don't have health insurance and need health care coverage, if they want to do something about America's competitiveness in this global economy, and make sure we keep more jobs in this country rather than see them go to China, India, or anywhere else, they should vote to let this bill come forward and have a debate about what this bill ought to look like to address the medical liability crisis that even the Senator from Illinois and the minority leader admit we have in this country today.

I implore Members to reconsider their obstruction. By obstructing progress on this vote we are not solving any problems. People are maybe making political points, but it is hard to see what kind of political point you make by obstructing good, common-sense legislation like this. I implore them to reconsider their obstruction and ask that they vote for cloture so we can move on and begin to solve this very real problem on behalf of the American people.

I yield the floor.

THE PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Virginia.

Mr. WARNER. Madam President, I commend our distinguished colleague from Texas. He spoke from the heart on this measure. It is a matter of utmost seriousness.

I ask unanimous consent I be made a cosponsor on this pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, I rise again to join the Senator from Texas and many other Members on this side of the aisle in strong support of health care liability reform.

My father was a medical doctor. He was an obstetrician. I am grateful to so many doctors from whom I am hearing all across America about this crisis. My father had no great interest in politics. He voted regularly; I remember that. I think most physicians find little time to involve themselves in politics. But this is a political question. We have to look at it fair and square and call it as it is.

America is crying out from every corner of our land, from all 50 States, for relief from the oppressive number of lawsuits brought against the medical profession, a profession that is not interested in politics. They are only interested in caring for the citizens of this Nation.

I am proud to stand with the distinguished majority leader, Mr. FRIST, the distinguished Senator from New Hampshire, the Senator from Texas, the Senator from Nevada, and others, time and

time again in this Senate to urge this body to rise above politics and extend a helping hand to the medical profession.

Early this year, I was pleased to offer my own amendment on health care liability reform. My amendment was called the Protect the Practice of Medicine Act, amendment No. 2624, but procedural impediments—I have to recognize we follow the rules around here—prevented the Senate from addressing that bill. My amendment was supported by the American Medical Association, the American College of Surgeons, and a number of other associations representing the men and women in our medical profession. Unfortunately, a procedural move by the opponents precluded the Senate from voting on this amendment.

I stand today in hopes there will be a vote on this measure. This measure is very much like the measure I put forth; indeed, the goals are common.

Opponents of health care liability reform have been using procedural tactics in the Senate to prevent an up-and-down vote on these issues for many years. The consequences are grave. Men and women continue to leave the practice of medicine due to the high cost of malpractice insurance, and patients continue to lose access to medical health care.

We have all heard the real stories from doctors about the rapidly increasing costs of medical malpractice insurance. In some States, malpractice insurance premiums have increased as much as 75 percent in 1 single year.

As have others in this body, I have received numerous letters from medical professionals from the Commonwealth of Virginia and across the Nation that share with me the very real difficulties they encounter with malpractice insurance and the consequences of this problem.

Let me read one of those letters sent to me by a doctor in Virginia. The doctor writes:

I am writing you to elicit your support and advice for the acute malpractice crisis going on in Virginia. . . . I am a 48-year-old single parent of a 14 and 17 year old. After all the time and money spent training to practice OB/GYN—

That is obstetrics, my father's profession, or specialty—

I find myself on the verge of almost certain unemployment and unemployability because of the malpractice crisis. I have been employed by a small OB/GYN group of doctors for the last 7 years. . . . Our malpractice premiums were increased by 60 percent in May of 2003. . . . The prediction from our malpractice insurance carrier is that our rates will probably double at our next renewal date in May 2004. The reality is we will not be able to keep the practice open and cover the malpractice insurance along with other expenses of medical practice.

Another letter writer from the Midwest:

Due to the rapid increase of premiums, the crisis is one of affordability and availability of insurance for physicians. . . . The result of this is premature retirement, physicians moving to more favorable areas—

Moving from one State to another State—

discontinuing high-risk procedures or finding other ways to make a living out of medicine. All of this, of course, affects the patients, who have increasing difficulty finding medical care.

Letter after letter are stories of the effect this crisis is having across America.

Time magazine and Newsweek have thoroughly detailed the crisis doctors are facing. I have the two recent issues entitled "Lawsuit Hell," and the second, "The Doctor is Out."

It is being discussed all across America. That is why it is so imperative this institution, the Senate, be given the opportunity to vote on this issue.

In June of 2003, Time magazine had a cover story on the effects of rising malpractice insurance rates. The story entitled "The Doctor is Out" discusses several doctors all across America who have had to either stop practicing medicine or had to take other action due to increased insurance premiums. One example cited in the Times article is the case of Dr. Mary-Emma Beres. Time reports:

Dr. Mary-Emma Beres, a family practitioner in Sparta, N.C., has always loved delivering babies. But last year, Dr. Beres, 35, concluded that she couldn't afford the tripling of her \$17,000 malpractice premium and had to stop. With just one obstetrician left in town for high-risk cases, some women who need C-sections now must take a 40-minute ambulance ride.

Dr. Beres' case makes clear that not only doctors are being affected by the medical malpractice crisis but patients, as well. With increased frequency due to rising malpractice rates, more and more patients are not able to find the medical specialists they need in their community or in a neighboring community and have to travel long distances or even go out of State, to other States, where there has been closer control on the types of lawsuits that generate these exorbitant fees.

Newsweek magazine had a cover story on the medical liability crisis. That cover story was entitled "Lawsuit Hell." I was struck by the feature in this magazine about a doctor from Ohio who saw his malpractice premiums rise in 1 year from \$12,000 to \$57,000. As a result, this doctor "decided to lower his bill by cutting out higher risk procedures like vasectomies, setting broken bones, and delivering babies"—even though obstetrics was his favorite part of practice. Now he glances wistfully at the cluster of baby photos still tacked to a wall in his office. 'I miss that terribly,' he says."

While these stories are compelling on their own, the consequence of this malpractice crisis can even be greater.

On February 11, 2003, a woman by the name of Ms. Leanne Dyess of Gulfport, MS, shared with both the HELP Committee—of which the distinguished chairman is present managing this bill—and the Judiciary Committee her very personal story about how this crisis has affected her.

She told us how, on July 5, 2002, her husband Tony was involved in a single-



car accident. He was rushed to the hospital in Gulfport where he had head injuries and received medical attention. Tony could not be treated at the Gulfport hospital because they did not have the specialist necessary to take care of him. After a 6-hour wait, he was airlifted to the University Medical Center. Today, Tony is permanently brain damaged.

According to Mrs. Dyess, no specialist was on staff that night in Gulfport because rising medical liability costs had forced almost all of the brain specialists in that community to abandon their practices. As a result, Tony had to wait 6 hours before the only specialist left in Gulfport could treat Tony to reduce the swelling in his brain.

As you can see, without a doubt, the astronomical increases in medical malpractice insurance premiums are having wide-ranging effects. It is a national problem, and it is time for a national solution.

President Bush has indicated that the medical liability system in America is largely responsible for the rising costs of malpractice insurance. The American Medical Association and the American College of Surgeons agree with him, as does almost every doctor in Virginia with whom I have discussed the issue.

The President of the AMA, Dr. John Nelson, has publicly stated:

We cannot afford the luxury of waiting until the liability crisis gets worse to take action. Too many patients will be hurt.

The American College of Surgeons concurs by stating:

More and more Americans aren't getting the care they need when they need it. . . . The "disappearing doctor" phenomenon is getting progressively and rapidly worse. It is an increasingly serious threat to everyone's ability to get the care they need.

Let me state unequivocally that I agree with our President, with the AMA, with the American College of Surgeons, and with the vast majority of doctors all across Virginia.

While the amendment I offered earlier this year is somewhat different from the measure before us today—the goals are the same: to ensure that patients have access to quality health care and to protect the practice of medicine from frivolous lawsuits and runaway jury verdicts.

The legislation before us today is a commonsense solution to a serious problem, and it is time for us to vote up or down on this legislation.

Over the past several weeks, I have listened closely to my colleagues speak on the floor of the U.S. Senate about the importance of having an up-or-down vote on particular legislation. And, in response, I ask, how is this bill any different?

I, for one, intend to vote to end the filibuster on health care liability reform legislation. The consequences of continued dilatory tactics are too profound to patients and doctors in this country. I urge my colleagues to do the same.

Madam President, I hope this institution can live up to its responsibility as duly elected representatives of the people of this country and respond to the cries of the people of this country to address this situation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I congratulate the senior Senator from Virginia for his excellent statement, especially for reflecting on some of the specific personal events which this bill tries to address: People who have been actually impacted by the fact they have not had a doctor available because the doctor can no longer afford to practice the type of medicine which this bill addresses, the delivering of children and emergency room medicine.

Madam President, I ask unanimous consent that Senator HAGEL be added as a cosponsor of S. 2207.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I wish to, once again, recite what this bill is about because there has been some diversion, I am afraid, coming from the other side in the representations that were made.

Basically, what we are dealing with is a bill that is going to try to make medicine more readily available to women who are having children.

In rural parts of this country today, for example, in northern New Hampshire, if a woman is having a child, she has to drive a long way to see a doctor because there is nobody practicing obstetrics in northern New Hampshire. The baby doctors in that part of the State have found their liability premiums so exceed what they can earn that they can no longer afford to practice medicine. So women are put at risk because they have to get in their car and drive a long way on snowy roads, and it is very difficult, especially as they move into the later terms of their pregnancy.

Secondly, this deals with people who walk into an emergency room, have an emergency and need to receive care. As was pointed out by the Senator from Tennessee, the majority leader, who is a doctor, there is a window of opportunity to care for people who have experienced trauma. If there isn't a doctor in that emergency room to take care of that individual, then you have a serious problem. This bill tries to address that by making affordable the practice of medicine in an emergency room.

Today, we have a problem. Doctors who practice in emergency rooms do not make a lot of money. They are not making enough money to cover the premiums for the liability insurance they have because of the massive amounts of lawsuits which are filed.

This bill will redress that issue. It will still give recovery to people. It will allow them to recover all the medical costs they have. It will allow them

to recover all their compensation costs, and it will allow them to recover something for what is known as pain and suffering. But it will also allow doctors to practice their disciplines because it will make it possible for baby doctors and emergency room doctors to be able to afford the cost of the premium of their liability insurance—something many cannot do today, so they are getting out of the practice. It will, therefore, give women better care and people who experience trauma better care in this country.

Madam President, it is my understanding, at this time, the Senator from West Virginia is to be recognized. Is that correct?

The PRESIDING OFFICER. The Senator has 40 minutes under his control. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

IRAQ

Madam President, I have watched with heavy heart and mounting dread as the ever precarious battle to bring security to postwar Iraq has taken a desperate turn for the worse in recent days and hours. Along with so many Americans, I have been shaken by the hellish carnage in Fallujah and the violent uprisings in Baghdad and elsewhere. The pictures have been the stuff of nightmares, with bodies charred beyond recognition and dragged through the streets of cheering citizens. And in the face of such daunting images and ominous developments, I have wondered anew at President Bush's stubborn refusal to admit mistakes or express any misgivings over America's unwarranted intervention in Iraq.

During the past weekend, the death toll among America's military personnel in Iraq topped 600—including as many as 20 American soldiers killed in one 3-day period of fierce fighting. Think of it. Many of the dead, most, perhaps, were mere youngsters—mere youngsters—just starting out on the great adventure of life. But before they could realize their dreams, they were called into battle by their Commander in Chief, a battle that we now know was predicated on faulty intelligence and wildly exaggerated claims.

As I watch events unfold in Iraq, I cannot help but be reminded of another battle, at another place and another time, that hurtled more than 600 soldiers into the maws of death because of a foolish decision on the part of their commander. The occasion was the Battle of Balaclava on October 25, 1864, during the Crimean war, a battle that was immortalized by Alfred Lord Tennyson in his poem "The Charge of the Light Brigade."

"Forward, the Light Brigade!"  
Was there a man dismay'd?  
Not tho' the soldier knew  
Someone had blunder'd:  
Their's not to make reply,  
Their's not to reason why,  
Their's but to do and die:  
Into the valley of Death  
Rode the six hundred.

Tennyson got it right—someone had blundered. It is time we faced up to the

fact this President and his administration blundered as well when they took the Nation into war with Iraq without compelling reason, without broad international or even regional support, and without a plan for dealing with enormous postwar security and reconstruction challenges posed by Iraq. And it is our soldiers, our men and women, our own 600 and more who are paying the awful price for this administration's blunder.

In the runup to the war, this President and his advisors assured the American people we would be greeted as liberators in Iraq. Yes, this Vice President, Vice President CHENEY, assured the American people we would be greeted as liberators in Iraq. For a brief moment, that outcome seemed possible. One year ago this week, on April 9, 2003, the mood in many corners of the Nation was euphoric as Americans witnessed the fall of Baghdad and the jubilant toppling of a massive statue of Saddam Hussein. Less than 4 weeks later, President Bush jetted out to an aircraft carrier parked off the coast of California to cockily declare to the world the end of major combat operations in Iraq. For those with tunnel vision, the view from Iraq looked rosy. Then Baghdad had fallen, Saddam Hussein was on the run, and U.S. military deaths had been kept to a relatively modest number, a total of 138 from the beginning of combat operations through May 1, 2003.

But the war in Iraq was not destined to follow the script of some idealized cowboy movie of President Bush's youth, where the good guys ride off into a rose-tinted sunset, all strife settled and all wrongdoing avenged. The war in Iraq is real. And as any soldier can tell you, reality is messy and bloody and scary.

Nobody rides off into the sunset for fear the setting sun will blind them to the presence of the enemies around them. So the fighting continues in Iraq. It is going on right now, right this minute, long past the end of major combat operations, and the casualties have continued to mount even now, even this hour, even this minute. As of today, more than 600 military personnel have been killed in Iraq and more than 3,000 wounded.

Now after a year of continued strife in Iraq comes word that the commander of forces in the region is seeking options to increase the number of U.S. troops on the ground, if necessary. Surely I am not the only one who hears echoes of Vietnam in this development. I was here in this Chamber when the word went out in those days to send more, send more men. We will be out by Christmas, yes.

Surely this administration recognizes that increasing the U.S. troop presence in Iraq will only suck us deeper and deeper into the maelstrom, into the quicksand of violence that has become the hallmark of that unfortunate, miserable country. Starkly put, at this juncture, more U.S.

forces in Iraq equates more U.S. targets in Iraq.

Again, Tennyson's words bespeak a cautionary tale for the present:

Cannons to the right of them,  
Cannons to the left of them,  
Cannons in front of them  
Volley'd and thunder'd;  
Storm'd at with shot and shell,  
Boldly they rode and well,  
Into the jaws of Death,  
Into the mouth of Hell  
Rode the six hundred.

Like Tennyson's Light Brigade, American military personnel have proved their valor, have proved their mettle, have proved their bravery in Iraq. In the face of a relentless and seemingly ubiquitous insurgency, they have performed with great courage and great resolve. They have followed the orders of their Commander in Chief, regardless of the cost. But surely some must wonder why it is American forces that are still shouldering the vast majority, the overwhelming majority of the burden in Iraq, 1 year after the liberation of the country.

Where are the Iraqis? Where are they? What has happened to our much-vaunted plans to train and equip the Iraqi police and Iraqi military to relieve the burden on U.S. military personnel? Could it be that our expectations exceeded our ability to develop these forces? Could it be that, once again, the United States underestimated the difficulty of winning the peace in Iraq?

Since this war began, America has poured \$121 billion into Iraq for the military and for reconstruction. But this money cannot buy security; this money cannot buy peace; and \$121 billion later, only 2,324 of the 78,224 Iraqi police are "fully qualified," according to the Pentagon. Nearly 60,000 of those same police officers have had no formal training—none. It is no wonder security has proved to be so elusive. The time has come for a new approach in Iraq.

The harsh reality is this: One year after the fall of Baghdad, the United States should not be casting about for a formula to bring additional U.S. troops to Iraq. The United States should instead be working toward an exit strategy. The fact that the President has alienated friend and foe alike by his arrogance in "going it alone" in Iraq and has made the task of internationalizing postwar Iraq an enormously difficult burden should not deter our resolve.

Pouring more U.S. troops into Iraq is not the path to extricate ourselves from that miserable and unfortunate country. We need the support and endorsement of both the United Nations and Iraq's neighbors to truly internationalize the Iraq occupation and take U.S. soldiers out of the crosshairs of angry Iraqis.

From the flood of disturbing dispatches from Iraq, it is clear that many Iraqis, both Sunni and Shiite, are seething under the yoke of the American occupation. The recent vio-

lent uprising by followers of a radical Shiite cleric is by far the most troubling development in months and could signal America's worst nightmare—a civil war in Iraq that pits moderate Shiites against radical Shiites. Layered over the persistent insurgency being waged by disgruntled Iraqi Sunnis and radical Islamic operatives, a Shiite civil war could be the event that topples Iraq from instability into utter chaos.

As worrisome as these developments are in and of themselves, the fact that they are occurring as the United States hurtles toward a June 30 deadline to turn Iraq over to an interim Iraqi government—a government that has yet to be identified, established, or vetted—adds an element of desperation to the situation.

Where should we look for leadership? To this Congress? To this Senate? Should we look here?

This Senate, the foundation of the Republic, has been unwilling to take a hard look at the chaos in Iraq. Senators have once again been cowed into silence. Where are Senators on this issue? Where are they? They are of many different opinions, I am sure. Why are they not here to express them? Senators have once again been cowed into silence and support, not because the policy is right, but because the blood of our soldiers and thousands of innocents is on our hands.

Questions that ought to be stated loudly in this Chamber are instead whispered in the halls. Those few Senators with courage to stand up and speak out are challenged as unpatriotic and charged with sowing seeds of terrorism. It has been suggested that any who dare to question the President are no better than the terrorists themselves. Such are the suggestions of those who would rather not face the truth.

This Republic was founded in part because of the arrogance of a king who expected his subjects to do as they were told, without question, without hesitation. Our forefathers overthrew that tyrant and adopted a system of government where dissent is not only important, it is also mandatory. Questioning flawed leadership is a requirement of this Government. Failing to question, failing to speak out, is failing the legacy of the Founding Fathers.

When speaking of Iraq, the President maintains that his resolve is firm, and indeed the stakes for him are enormous. But the stakes are also enormous for the men and women who are serving in Iraq and who are waiting and praying for the day they will be able to return home to their families, their ranks painfully diminished but their mission fulfilled with honor and dignity.

The President sent these men and women into Iraq, and it is his responsibility to develop a strategy to extricate them from that troubled country before their losses become intolerable.

It is staggeringly clear that the administration did not understand the

consequences of invading Iraq a year ago, and it is staggeringly clear that this administration has no effective plan to cope with the aftermath of the war and the functional collapse of Iraq. It is time—past time—for the President to remedy that omission and to level with the American people about the magnitude of mistakes made and lessons learned. America needs a roadmap out of Iraq, one that is orderly and astute, else more of our men and women in uniform will follow the fate of Tennyson's doomed Light Brigade.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I came to speak on medical malpractice. How much time is remaining on this side?

The PRESIDING OFFICER. There are 9 minutes remaining.

Mr. BOND. Madam President, I wish to save 3 minutes, if you will advise me. I believe another colleague is coming.

I do have to make one or two quick remarks about this subject of Iraq. When we went into Iraq, 77 Members of this body believed the intelligence, that there was a deadly force, a radical tyrant there who needed to be removed.

One may argue about the intelligence. The intelligence was not as good as it should have been, and that is why we on the Intelligence Committee have been looking into the evidence. But there is no question, what David Kay said afterward when he did the work of the Iraqi Survey Group, Iraq was a far more dangerous place than we even imagined it.

We heard from soldiers. I talked with soldiers who have been there. They know what we are doing. They know the atrocities that went on. They know Iraq was a place of weapons of mass destruction, that biological and chemical weapons had been manufactured before, with wide-open opportunities for terrorists in Iraq to get those weapons and to use them. This was a clear-cut danger, not only to the people of Iraq who were suffering every day—literally hundreds of thousands murdered, neighbors murdered—but also a harbor for terrorists in that country and around the world.

What we did in Iraq was dismember the Saddam Hussein regime and wipe out the terrorist holding pattern of government, wipe out the protective elements Afghanistan's Taliban government and Iraq's Saddam Hussein have given the terrorists.

Yes, there is deadly fighting going on. There are tragedies every day, and it was laid out by al-Zarqawi, the terrorist leader in northern Iraq who has been working there for years to attack not only American soldiers but Iraqi civilians. They are attacking those civilians, but they are aiming at the American public opinion. They are aiming at this body. They want to get this body to say we are going to cut and run so they can have the oppor-

tunity to run that country one more time.

I believe we cannot forsake and disregard the sacrifices made by the brave men and women who have deposed and captured Saddam Hussein and opened up the opportunity for a free and vibrant Iraq to flourish in the Middle East. I hope we will stay the course, and I think my colleagues will want to talk about it.

I wanted to address today the problem of medical malpractice insurance rates and how trial lawyers have driven them through the top of the roof.

Nineteen States are in a full-blown crisis, including my home State of Missouri. Premium increases in 2002 were 61 percent, on top of increases in the previous year of 22 percent.

Almost a third of the physicians in Missouri say they are considering leaving their practice altogether. It is happening in Missouri and across the country. But this is not only a problem for doctors. They are well educated. They can move elsewhere and resume their practice, as difficult and as unfair as that is. The real damage, the real pain, is being felt by their patients.

The headlines and the horror stories continue to accumulate, and patients continue to suffer in Missouri and across the country. The bill before us on which we are going to vote today is a narrow, targeted, short-term solution to a growing national crisis. This bill protects patient access to emergency and trauma care services, as well as access to care for women and babies.

I have come to this floor many times to talk about protecting access to care for pregnant women. It is a real problem in Missouri. Last year, Missouri lost a total of 33 obstetricians. Let me give a few examples of the compromised care in Missouri.

A St. Joseph, MO, practice, the only practice in northwest Missouri to accept Medicaid, lost one-third of its doctors after the insurance company would no longer offer insurance to OB/GYNs. St. Joseph now has only seven OB/GYNs serving its population.

A Missouri doctor who had been in private practice for 3 years experienced a 400-percent increase in liability premiums for the past 3 years. He got a quote of \$108,000 for the current year. The OB/GYN is considering quitting obstetrics to find more affordable insurance to do something else.

A gynecological oncologist in Missouri left a group practice, eliminated a rural outreach clinic because of rising professional medical liability premiums. Women with gynecological cancers in Ste. Genevieve, Carbondale, and Chester now have to drive over 100 miles to see a gynecological oncologist.

On the eastern side of the State in St. Ann, MO, an OB/GYN was forced to close his practice last year because of medical liability costs that rose 100 percent. Previously, that practice had delivered about 400 babies a year.

Twelve doctors at the Kansas City Women's Clinic used to serve women in

both Missouri and Kansas, but because of the rising medical liability insurance rates in Missouri, the clinic could not find a single company that would offer them a medical malpractice insurance policy they needed in their office in Missouri.

As a result, at the end of 2002, they closed their doors to Missouri patients. There were over 6,000 visits a year in their Missouri office. Now they have to go to Kansas to see an OB/GYN or someplace else.

Access to OB/GYN services is not the only care in jeopardy. This crisis threatens access to emergency and trauma services as well. To secure affordable medical liability insurance or to minimize their risk of lawsuits, many physicians, including neurosurgeons, orthopedic surgeons, cardiothoracic surgeons, obstetricians, and cardiologists are forced to stop serving "on call" to hospital emergency departments.

Today, in many hospitals there are no neurosurgeons available to treat patients with major head trauma or no orthopedic surgeon to care for patients with open fractures.

Patients suffering from head and spinal injuries, broken bones, gunshot wounds, or other major trauma are airlifted to other medical facilities. Critical lifesaving facilities are no longer available, and in many extreme cases trauma centers have been forced to shut down completely. This is a danger that speaks in volumes.

As my colleagues know, there is a "golden hour" that trauma patients have from the time they are injured to the time they get trauma care. Closing trauma centers increases the odds that patients won't get the care they need in that hour.

In Missouri the numbers speak volumes: 20 percent of all the neurosurgeons in Kansas City, MO have quit or moved out of the area in the past 12 months; 5 out of 25 neurosurgeons in private practice in St. Louis quit last year; 21 out of 79 neurosurgeons surveyed in Missouri are considering leaving the State; 2 trauma centers in Kansas City have closed in the past 12 months due to lack of physician coverage.

According to Dr. Steve Reintjes, a practicing physician at the KC Neurosurgery Group in Kansas City, "Patients are dying before they get to us because the trauma center's closed."

Patients are having a hard time getting the care they need and communities are losing their trusted doctors. We have a health care system that is in crisis in Missouri and across the country.

The bill before us today provides a sensible, short-term solution to a growing national crisis, and I urge my colleagues to support it.

Madam President, I see my colleague from Arizona has joined us. I yield the remainder of my time to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I thank my colleague from Missouri. I also paid close attention to his statement. I think it is a very important one.

Madam President, how much time is remaining?

The PRESIDING OFFICER. There are 2 minutes 45 seconds remaining.

Mr. MCCAIN. I ask unanimous consent that I be allowed an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I thank the Chair.

IRAQ

Mr. MCCAIN. Madam President, I take the floor to respond to comments made by Senator BYRD, but also to general comments that have been made over the last 48 hours as we all recognize this is a very difficult time for us in Iraq.

I do not have to review with any of my colleagues the events of the last few days and the tragedies in the loss of these brave young Americans who are fighting and sacrificing for someone else's freedom.

I have also heard a number of observers, including some Senators, who have compared events in Iraq to what we went through in Vietnam. I happen to know something about Vietnam, and I know we do not face another Vietnam. I need not go into the long history of our involvement in that nation, the reasons for our failure, but the realities on the ground in Iraq are clear.

There is no superpower that is backing these minority of Shias and Sunnis who are seeking to gain political power through the use of a gun, and there is no comparison as far as the sanctuary which this enemy has. We grant them no sanctuary.

Some have stated we are on the defensive. I would argue that, as we speak, in Fallujah and other places, our Marines and Army are on the offensive, dedicated to the proposition that no group, no matter what their ethnic or religious beliefs are, will take control of Iraq.

Control of Iraq will be the result of a democratic process and a representative one, part of which is the turning over of power to the Iraqi people on June 30.

We have had this argument back and forth: Should we turn over power of the government to the Iraqis on June 30? I say yes, and I say yes recognizing two realities. One is that it will be a difficult process, and we have a lot more planning to do between now and June 30 for that transition to take place. The other reality, as far as the security situation is concerned, is that America's military will be there in force for a significant period of time, and the American people need to be told that.

This is a long, tough, hard struggle. It is hard for countries to adopt democracies. It is incredibly difficult when they have never known democracy and freedom in the past. A little later, I want to talk a little bit more about

what happens if we fail, as well as what happens if we succeed in Iraq.

Again, in Vietnam there was superpower support. There were arms and political support. We did not have a clear plan for victory, and dare I mention that in Vietnam many times we had more casualties in a week, sometimes less than a week, than we have had in a year in Iraq.

To make these comparisons with the Tet offensive or the entire Vietnam conflict is not only uninformed but I think a bit dangerous because, of course, the specifics of our involvement in that conflict fade, as they should, in the memories of the American people.

What is happening in Iraq today is we have a Sunni insurgency that consists of ex-Baathists and Saddam loyalists. They obviously are the only people who were better off during Saddam Hussein's regime because they were the favored minority that were of the same religion as Saddam. They realize they will never run Iraq again because they are in the minority. Because they are in the majority, the Shia will probably dominate that government, but we also have a constitution in Iraq that guarantees the rights of minorities. We are there and a new government will be there to guarantee those same rights.

The realities are the Sunni minority will never control Iraq again. We have a small minority of Shias who are trying to grab some political power before the July 1 transition. There is very little doubt that Sadr's followers are in a distinct minority and the majority of Shias still owe allegiance and have allegiance to the Ayatollah Sistani, who has argued, perhaps not forcefully enough, that we do not have the kind of armed conflict that we are seeing today.

Is this a difficult political problem? Yes. Is it the time to panic, to cut and run? Absolutely not. The vast majority of Iraqi people are glad we are there and they state unequivocally that they are better off than they were under the regime of Saddam Hussein. Lest time dim our memory, let us remember the mass graves that we discovered, the 8- and 9-year-old boys coming out of prison in Baghdad, the despotic, incredibly cruel practices of his two sons. The people of Iraq and America and the world are better off with Saddam Hussein gone.

Now, we can argue about intelligence; we can argue about weapons of mass destruction. That is why we have commissions. That is why tomorrow, in an almost unprecedented fashion, the National Security Adviser to the President will testify before the 9/11 Commission. I am confident she will perform admirably because she is an incredibly intelligent and capable individual.

The fact is, to argue that we should have left Iraq under the rule of this incredibly cruel person who used weapons of mass destruction, who had weapons of mass destruction in 1991, was con-

tinuing to attempt to acquire weapons of mass destruction, and if in power would continue to try to acquire those weapons, certainly flies in the face of the facts about Saddam Hussein's regime.

Senator BYRD says we should not have gone into Iraq in the first place and that we should not be there now. I respect the view. I strongly disagree with it, and I think the facts indicate that is not the case. We could argue for days about it, but right now at this moment we need to send a message not only to the Sunnis in Iraq and the minority of Shias in Iraq who are taking up arms and killing Americans that we are there to stay. We are there to stay and we will see it through. If we fail, if we cut and run, the results can be disastrous. Those results would be the fragmentation of Iraq, to start with, on ethnic and religious lines. The second result would be an unchecked hotbed of training ground and birthing of individuals who are committed to the destruction of the United States of America.

We will never solve the war on terror as long as there are millions of young men standing on street corners all over the Middle East with no hope, no job, no opportunities, no future. They are the breeding ground. They are the ones who are taken off the streets and taken into the madrasahs—funded by the Saudis, by the way—and taught to hate and kill, and who want to destroy America, the West, and all we believe in. Their hatred is not confined to the United States of America, as the citizens of Spain have found out, much to their dismay and tragedy.

What happens if we win? What happens if we see this thing through? It will be hard and it will be difficult and perhaps we need more troops. I have said for a long time that we needed more troops of certain types, but we have to see this thing through. And what will happen? What will happen is that we will affirm the profound and fundamental belief upon which this Nation was founded, that all men and women are created equal and endowed by their Creator with certain unalienable rights, and they are not just in the Western Hemisphere; they are not just in the United States of America; they are not just in Europe. The people in the Middle East have the same hopes, beliefs, and yearnings for freedom and democracy, and they have a right to determine their own future just as have our own citizens and citizens throughout the world.

When they achieve that—and it will be long and hard and difficult—it will send a message to every despotic regime, every religious extremist throughout the Middle East, their day is done because in a democratic, free, and open society the people want to live in peace with their neighbors and with the world.

So there is a lot at stake. I grieve every moment, as every American does, for the loss of these brave young

Americans' lives. They have made a supreme sacrifice, and we will honor their memory, but at least their grieving families will know they sacrificed in the cause of freedom.

At this particular moment of crisis—and it is a crisis—I urge all of my colleagues and all Americans to join together in this noble cause. Yes, we are free to criticize; yes, we are free to make recommendations and suggestions; but the awesome responsibility lies with all of us, led by the President of the United States, as we attempt to carry out what is the most noble act that no country in the world has ever done besides the United States of America, and that is to shed our most precious blood and expend our treasure in defense of someone else's freedom in the hope that they may enjoy the fruits of a free and open society in a democracy that is guaranteed to all men and women by our Creator.

I yield the floor.

Mr. DOMENICI. Mr. President, I strongly support the Pregnancy and Trauma Care Access Protection Act of 2004.

I thank Majority Leader FRIST for proactively addressing this crisis. Across America, health care providers, especially health care providers that work in high-risk services such as obstetricians, gynecologists, and emergency personnel, have faced difficulty obtaining affordable medical liability coverage. Doctors are being hit with dramatic increases in the premiums they pay for liability insurance—if insurance is even available in their area.

These soaring costs are depriving patients' access to crucial medical care, especially in rural areas, where some services are already in short supply. In a number of instances, doctors are forced to relocate their practice as hospitals and physicians find it increasingly difficult to continue offering certain services. Without real reform, more and more Americans will find that health care services are simply going to disappear from their communities. And, in my opinion, this is unacceptable, especially when a reasonable solution is at hand.

There is a map I have seen in this chamber. This map is of the United States, and each of the States is color-coded: red if the State is in crisis, yellow if the State is showing problems, and white if the State is currently OK.

I am very proud that my State, New Mexico, is one of the six states that is white. New Mexico is OK because in 1976, the State legislature recognized there was a problem with medical malpractice, and they passed reform. Part of this reform included caps on noneconomic damages. And, as the map shows, it has worked. States with realistic limits on noneconomic damages are faring better. Physicians in most states with caps on non-economic damages in medical malpractice cases pay lower insurance premiums. Reasonable caps keep premiums from rising quickly.

Unquestionably, truly injured parties must have access to our courts to adjudicate their claims. And injured patients must be compensated for their economic damages such as cost of future medical care and lost wages. However, trial lawyers have taken advantage of our civil justice system to further their own interests. The explosion of malpractice lawsuits and subsequent growth of astronomical jury awards have tremendously increased the costs of medical malpractice insurance. Premium increases have jumped as much as 81 percent over the last 2 years, according to some insurers. Frivolous lawsuits combined with excessive judgments are destroying the doctor-patient relationship and driving professionals out of medical practice all together. This reality has terrible consequences for all Americans.

The bill we are debating today is real reform. It provides an unlimited amount of damages for actual economic loss. It caps noneconomic damages, it has more reasonable punitive damages awards, a uniform statute of limitations, and it provides flexibility to States by allowing State laws to supersede Federal limits on damages.

This bill creates directives for a malpractice system that currently is unpredictable and largely random. The rising cost of medical malpractice insurance is a serious threat to the well being of American citizens and our Nation's healthcare system. It is time for Congress to pass meaningful legislation that will address our Nation's health care crisis.

Mr. BYRD. Mr. President, the Senate today is considering a procedural vote on a motion to recommit the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) legislation. This is an effort to bring to the Senate a remodeled bill—one containing popular energy tax incentives—that will make a vote against it less politically palatable. This is much less about enacting good national policies than it is about producing campaign ads. This is less about creating jobs than it is about playing partisan politics. It is certainly less about the very important business of formulating a comprehensive national energy policy than it is about scoring points for the majority's campaign contributors. As the Members of this body know well, bipartisan energy legislation, including a very similar package of energy tax incentives, passed this body twice already—once in April 2002, in the 107th Congress, and again in July 2003, in the first session of this Congress.

I support, and have strongly advocated, many of these targeted energy tax provisions. In their totality, these incentives can be a helpful stimulus to get our Nation's energy policy back on track, and the Senate's proposal has had support in numerous industry sectors as well as among consumers. However, it is a rotten carrot that is dangling before us. This is yet another perverse, backdoor attempt to buy off

Democratic votes by adding popular provisions to a Senate bill, while simultaneously preventing Democratic Senators from offering their own amendments on the floor and preventing them from protecting their interests during conferences.

The majority is preventing Democrats from getting votes on other very important policy matters. There are many things that this Senate must address, including passing these energy tax incentives, but the majority needs to stop playing games with its Democratic colleagues. The Senate deserves better.

The Senate finds itself handcuffed by the same authoritarian dictates from the Bush administration that have led to some of the fiercest partisan passions that this body has seen in decades. Gone is the traditional spirit of cooperation. Gone is the belief that the needs of the Nation stand above the ambitions of political party. It is a disheartening turn for this historic Chamber.

Despite its campaign-driven rhetoric, this lipservice and corporate coddling have been the sum total of this administration's economic, health care, energy, and so many other policies. From the beginning, the administration's tax cuts have primarily benefited the wealthy. Hope for a bipartisan Medicare prescription drug benefit was high, but all that was left was a prescription for protecting the pharmaceutical industry and a drug benefit that is a sham for America's seniors. Progress on an energy strategy for the country began cooperatively, but quickly dissolved as Democrats were locked out of conference negotiations, their seats filled by special interest lobbyists.

If the Republican majority wants to get something done in a closely divided Senate, it can, but it has to work with the other side of the aisle at all stages of the legislative process. That means respecting the committee process, respecting the rights of Senators to offer—and get votes on—amendments on the floor. It means truly including Democrats in conference deliberations, and defending the position of the Senate in conference negotiations—not buckling under pressure from the White House. I believe that, if the majority would do this, we would follow a better, more productive legislative path instead of voting on—and failing to invoke—cloture so often.

Mr. FEINGOLD. Mr. President, once again we are faced with an ill-advised medical malpractice bill coming to the Senate floor without any committee consideration. Some argue that we have a malpractice insurance "crisis" that is driving doctors from the practice of medicine, particularly in the field of obstetrics and gynecology, or OB/GYN. This is a serious issue and it deserves close examination. But we haven't yet explored the issue in the Senate at all. Nor have we examined the issue of how malpractice cases may

be affecting the practice of emergency medicine. No committee has held hearings or marked up a bill on these topics.

In fact, no work has apparently been done behind the scenes since the Senate refused to invoke cloture on S. 2061. Instead, once again, an extreme and unbalanced proposal has been brought directly to the floor and Senators are expected to vote for it without any committee having looked into the facts or considered alternatives. That is not how the legislative process should work.

I would like very much for Congress to address the problem of malpractice insurance premiums once we understand the seriousness of the problem and the effectiveness of the proposed solutions. But by bringing this bill directly to the floor only 6 weeks after a nearly identical bill failed to achieve the necessary vote, the majority shows that it is not serious about addressing the problem. It appears that what is going on here is a cynical exercise, designed only to fail and to provide fodder for political attacks. This issue deserves better and I hope that there will be some effort to address it in a serious, bipartisan manner.

I will vote nay on cloture.

Mr. KENNEDY. Mr. President, today's vote on S. 2207 is a test of the Senate's character. In the past, this body has had the courage to reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in the Patients' Bill of Rights debate, the Bush administration and congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme tort reforms are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

Once more, we must stand resolute.

We must not sacrifice the fundamental legal rights of seriously injured patients on the altar of insurance company profits. We must not surrender our most vulnerable citizens to the avarice of these companies.

This bill contains the same arbitrary and unreasonable provisions which were decisively rejected by a bipartisan majority of the Senate twice within the past year. The only difference is that the bill rejected in February took basic rights away only from women and newborn babies who are the victims of negligent obstetric and gynecological care, while this bill includes victims of negligent emergency trauma care as well. Broadening the bill does not make it more acceptable. On the contrary, it only expands the unfairness to an additional category of malpractice victims.

This legislation would deprive seriously injured patients of the right to

recover fair compensation for their injuries by placing arbitrary caps on compensation for noneconomic loss in all obstetrical and gynecological cases and in all emergency and trauma care cases. These caps only serve to hurt those patients who have suffered the most severe, life-altering injuries and who have proven their cases in court.

They are babies who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who lost organs, reproductive capacity, and in some cases even years of life. They are the children who are permanently injured when emergency room doctors fail to provide proper medical treatment after an accident. These are life-altering conditions. It would be terribly wrong to take their rights away. The Republicans talk about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

A person with a severe injury is not made whole merely by receiving reimbursement for medical bills and lost wages. Noneconomic damages compensate victims for the very real, though not easily quantifiable, loss in quality of life that results from a serious, permanent injury. It is absurd to suggest that \$250,000 is fair compensation for a child who is severely brain injured at birth and, as a result, can never participate in the normal activities of day to day living; or for a woman who lost her reproductive capacity because of an OB/GYN's malpractice; or for a patient who suffered a devastating heart attack because a negligent emergency room doctor ignored his severe chest pains and sent him home.

This is not a better bill because it applies only to patients injured by malpractice in three medical categories. That just makes it even more arbitrary.

The entire premise of this bill is both false and offensive. Our Republican colleagues claim that women and their babies must sacrifice their fundamental legal rights in order to preserve access to OB/GYN care, and that those seeking care in a hospital emergency room must leave their rights at the door. The very idea is outrageous. For those locales—mostly in sparsely populated areas—where the availability of specialists is a problem, there are far less drastic ways to solve it.

This bill is based on the false premise that the availability of OB/GYN and trauma care physicians depends on the enactment of draconian tort reforms. If that were accurate, States that have already enacted damage caps would have a higher number of OB/GYNs providing care. However, there is in fact no correlation. States without caps actually have 28.4 OB/GYNs per 100,000 women, while States with caps have 25.2 OB/GYNs per 100,000 women.

Nor is there any correlation between access to emergency trauma care and

whether a State has enacted restrictions on the compensation that malpractice victims can receive. In fact, 7 of the top 10 States identified in the Journal of the American Medical Association, March 26, 2003, as having the highest number of level I and II trauma centers per million residents do not cap damages in malpractice cases. Five of the States with the best availability of trauma centers have actually been listed as malpractice "crisis" States by the AMA. That is worth repeating; 7 of the 10 States whose residents have the greatest access to emergency care do not limit damages. In contrast, four States that the AMA identifies as "doing OK," having satisfactory tort laws, fail to have an adequate number of trauma centers to serve their residents.

And that is only one of many fallacies in this bill. If the issue is truly access to OB/GYN and emergency care doctors, why has this bill been written to shield from accountability HMOs that deny needed medical care to a woman suffering serious complications with her pregnancy or to a child in need of emergency care after a serious accident, a pharmaceutical company that fails to warn of the dangerous side effects caused by its new drug, and a manufacturer that markets a medical device which can seriously injure the user. Who are the authors of this legislation really trying to protect?

In reality, this legislation is designed to shield the entire health care industry from basic accountability for the care it provides to women and their infant children and to patients in need of emergency treatment. It is the first step toward broader legislation which would shield the industry from accountability in all health care decisions involving all patients. While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; whose entire lives have been devastated by medical neglect and corporate abuse.

This legislation is attempting to use the sympathetic family doctor as a Trojan horse concealing an enormous array of special legal privileges for every corporation which makes a health care product, provides a health care service, or insures the payment of a medical bill. Every provision of this bill is carefully designed to take existing rights away from those who have been harmed by medical neglect and corporate greed.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

When will the Republican Party start worrying about injured patients and

stop trying to shield big business from the consequences of its wrongdoing?

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent, 0.66 percent, of the Nation's health care expenditures each year. Malpractice premiums are not the cause of the high rate of medical inflation.

In this era of managed care and cost controls, it is ludicrous to suggest that the major problem facing American health care is "defensive medicine." The problem is not "too much health care," it is "too little" quality health care.

A CBO report released in January of this year rejected claims being made about the high cost of "defensive medicine". Their analysis "found no evidence that restrictions on tort liability reduce medical spending." There was "no statistically significant difference in per capita health care spending between States with and without limits on malpractice torts."

The White House and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But there is scant evidence to support their claim. In fact, there is substantial evidence to refute it. In the past few years, there have been dramatic increases in the cost of medical malpractice insurance in States that already have damage caps and other restrictive tort reforms on the statute books, as well as in States that do not. No substantial increase in the number or size of malpractice judgments has suddenly occurred which would justify the enormous increase in premiums which many doctors are being forced to pay. The reason for sky-high premiums cannot be found in the courtroom.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Comprehensive national studies show that medical malpractice premiums are not significantly lower on average in States that have enacted damage caps and other restrictions on patient rights than in States without these restrictions. Insurance companies are merely pocketing the dollars which patients no longer receive when "tort reform" is enacted.

Let's look at the facts. Based on data from the Medical Liability Monitor on all 50 States, the average liability premium in 2003 for doctors practicing in States without caps on malpractice damages, \$35,016, was less than the average premium for doctors practicing in States with caps, \$40,381. There are many reasons why insurance rates vary substantially from State to State. This data demonstrates that it is not a

State's tort reform laws which determine the rates. Caps do not make a significant difference in the malpractice premiums which doctors pay. This is borne out by a comparison of premium levels for a range of medical specialties.

Focusing on premiums paid by OB/GYN physicians, the evidence is the same. Data from the Medical Liability Monitor shows that the average liability premium for OB/GYNs in 2003 was actually slightly higher in States with caps of damages, \$63,278, than in States without caps, \$59,224. It also showed that the rate of increase last year was higher in States with caps, 17.1 percent, than it was in States without caps, 16.6 percent.

This evidence clearly demonstrates that capping malpractice damages does not benefit the doctors it purports to help. Their rates remain virtually the same. It only helps the insurance companies earn even bigger profits. As *BusinessWeek* magazine concluded after reviewing the data, "the statistical case for caps is flimsy," March 3, 2003 issue.

If a Federal cap on noneconomic compensatory damages were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created the recent market instability, will benefit.

Insurance industry practices are responsible for the sudden dramatic premium increases which have occurred in some States in the past few years. The explanation for these premium spikes can be found not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves.

Insurers make much of their money from investment income. Interest earned on premium dollars is particularly important in medical malpractice insurance because there is a much longer period of time between receipt of the premium and payment of the claim than in most lines of casualty insurance. The industry creates a "malpractice crisis" whenever its investments do poorly. The combination of a sharp decline in the equity markets and record low interest rates in recent years is the reason for the sharp increase in medical malpractice insurance premiums. What we are witnessing is not new. The industry has engaged in this pattern of behavior repeatedly over the last 30 years.

Last year, Weiss Ratings, Inc., a nationally recognized financial analyst conducted an in-depth examination of the impact of capping damages in medical malpractice cases. Their conclusions sharply contradict the assumptions on which this legislation is based. Weiss found that capping damages does reduce the amount of money that malpractice insurance companies pay out to injured patients. However, those savings are not passed on to doctors in lower premiums.

Between 1991 and 2002, the Weiss analysis shows that premiums rose by substantially more in the States with damage caps than in the States without caps. The 12-year increase in the annual malpractice premium was 48.2 percent in the States that had caps, and only 35.9 percent in the States that had no caps. In the words of the report: "On average, doctors in States with caps actually suffered a significantly larger increase than doctors in States without caps . . . In short, the results clearly invalidate the expectations of cap proponents."

Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically over the past few years do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

Doctors and patients are both victims of the insurance industry. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

There are specific changes in the law which should be made to address the abusive manner in which medical malpractice insurers operate. The first and most important would be to subject the insurance industry to the Nation's antitrust laws. It is the only major industry in America where corporations are free to conspire to fix prices, withhold and restrict coverage, and engage in a myriad of other anticompetitive actions. A medical malpractice "crisis" does not just happen. It is the result of insurance industry schemes to raise premiums and to increase profits by forcing antipatient changes in the tort law. I have introduced, with Senator LEAHY, legislation which will at long last require the insurance industry to abide by the same rules of fair competition as other businesses. Secondly, we need stronger insurance regulations which will require malpractice insurers to set aside a portion of the windfall profits they earn from their investment of premium dollars in the boom years to cover part of the cost of paying claims in lean years. This would smooth out the extremes in the insurance cycle which have been so brutal for doctors. Thirdly, to address the immediate crisis that some doctors in high risk specialties are currently facing, we should provide temporary premium relief. This is particularly important for doctors who are providing care to underserved populations in rural and inner city areas.



Unlike the harsh and ineffective proposals in S. 2207, these are real solutions which will help physicians without further harming seriously injured patients. Unfortunately, the Republican leadership continues to protect their allies in the insurance industry and refuses to consider real solutions to the malpractice premium crisis.

This legislation, S. 2207, is not a serious attempt to address a significant problem being faced by physicians in some States. It is the product of a party caucus rather than the bipartisan deliberations of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation. For that reason, it does not deserve to be taken seriously by the Senate.

Mr. MCCAIN. Mr. President, when we first began the Senate debate on S. 1637 in March, the intended purpose of the measure was to resolve appropriately the controversy between the United States and the European Union over the extraterritorial income, ETI, exemption tax benefit for exports. Almost all of us recognize the critical need to pass legislation to bring the United States back into compliance with World Trade Organization, WTO, agreements and stop the burdensome tariffs now imposed on our manufacturers. Unfortunately, achieving the legislation's worthy purpose is in jeopardy due to a host of special interest tax provision add-ons. I do not support these latest add-ons and, as such, must vote against today's cloture vote.

When S. 1637 was presented to the Senate, it was a 378-page bill. Although only one roll call vote has occurred on an amendment during the floor consideration, the bill had grown to some 527 pages by the last cloture vote on March 22. I reluctantly voted for cloture, voicing my strong concerns about the direction the bill was going at the time. But instead of reigning in the special interest add-ons, they are only growing further. The bill has now grown to a 929-page Easter basket of goodies, but with almost no debate or votes on its provisions, including the latest addition of \$13 billion in energy-related tax breaks.

I recognize the strong interest of the chairman of the Energy Committee and others to pass an energy bill. I wish that I could support the bill that the committee has developed, but in its current form I cannot. But I can assure the proponents of the energy legislation that to now shift \$13 billion in costs from their bill to the JOBS bill is not the way to gain support for an energy bill. Instead, they need to develop an energy bill that is more evenly balanced between stimulating the supply of conventional fuels and promoting alternative fuels and energy efficiency.

If the Senate is to consider an energy tax incentive bill or an energy authorizing bill, we should be following regular order, and bringing legislation to the floor and debating in its own right.

Instead, we are being asked to simply accept a 362-page energy bill add-on without debate or further amendments.

With our limited legislative time during this election year, the Senate would serve the American public far better if it stayed focused on accomplishing the intended purpose of legislating. Unfortunately, the JOBS bill, which is a much needed bill, is being dragged down with the unnecessary weight of billions of dollars in wasteful subsidies, tax breaks, and special exemptions for special interest industries. With the Nation facing a half-trillion dollar deficit, now is not the time for Congress to be enacting new tax credits and carving out sweet deals for special interests.

Mr. FRIST. Mr. President, today, we will be voting on a cloture motion to allow the Senate to proceed to debate S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004. I strongly urge my colleagues to vote for the motion to proceed.

It should be clear to all those following this debate that our medical litigation system is failing the American people. It is failing our communities, our hospitals, our doctors, our families and, most importantly, our patients. Unfortunately, this system hurts our most vulnerable patients the most—those needing help from highly trained medical specialists like neurosurgeons and obstetricians. Reform of this broken system is desperately needed, and we must act.

The upcoming vote will allow us to fully debate this critical issue. If Members have problems with certain parts of the bill that is fine. Let's move to the bill, offer amendments, and fully debate this needed reform.

But if action is delayed, we know what will happen: patients will suffer, women will suffer and babies will suffer. Those seeking care from emergency rooms and trauma centers will suffer. OB/GYNs will continue to flee their practices and drop obstetrical services, and more doctors will refuse to perform vitally needed emergency services.

I remind my colleagues that our current litigation system does more than simply threaten access to care. It indirectly costs the country billions of dollars every year in defensive medicine. The fear of lawsuits forces doctors to practice defensive medicine by ordering unneeded extra tests and procedures. Though the numbers are hard to calculate, well-researched reports predict savings from reform at tens of billions of dollars per year.

It directly costs the taxpayers billions. The CBO has estimated that reasonable broad reform will save the Federal Government \$14.9 billion over 10 years through savings in Medicare and Medicaid.

It impedes efforts to improve patient safety. The threat of excessive litigation discourages doctors from discussing medical errors in ways that could dramatically improve health

care and save hundreds or thousands of lives. I am a strong supporter of patient safety legislation which I hope we will pass this year. In addition to patient safety legislation, we need to address the underlying problem, our liability system.

We must reform this broken liability system. That is why I strongly support the Pregnancy and Trauma Care Access Protection Act. I thank my colleague Senator GREGG, who has skillfully led this debate, and I thank Senator ENSIGN, a leading proponent of reform, who has seen the current crisis in his own State of Nevada.

This legislation will protect access to care for our most vulnerable citizens and ensure that those who are negligently injured receive fair and just compensation. Again, I encourage my colleagues to move this legislation forward. We cannot afford further delay.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that I be recognized to make a statement and, upon the conclusion of my statement, the Senate recess until 2:15 as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

FSC/ETI

Mr. GRASSLEY. Mr. President, I am extremely disappointed that we have to be here today debating the FSC/ETI bill. The fact is, with America's economic health at risk, the bipartisan JOBS bill should have been debated and voted out of this body last month. Instead, attempts to move this jobs in manufacturing bill has been stymied. As a result, American manufacturing is not only being deprived of a competitive boost that it deserves at a time of no job creation in manufacturing but, in addition to that, U.S. exporters are stuck with a 6-percent European tax on our products going there.

This situation has festered for much too long. It has been several years since the World Trade Organization has ruled that the FSC/ETI regime did not meet our World Trade Organization obligations that this Senate and the other body agreed to a long time ago. Since then, we have known that. It is a fact. We have all known that unless we changed our current tax system, tariffs against our exports were looming.

To try to avoid these sanctions, Senator BAUCUS and I came together over a year ago and formed a bipartisan, bicameral working group to find a real, permanent solution to this problem.

The result is bipartisan. Remember that nothing gets done in the Senate that is not bipartisan. We have a jobs in manufacturing act before the Senate, and we will be voting on that today. This bill was passed out of my committee by a vote of 19 to 2. That means all Democrats voted for it. It provided a real and permanent solution to our FSC/ETI problems in a way which complies with our WTO obligations.

The bipartisan jobs in manufacturing act helps America's manufacturing sector. It helps us compete by giving an across-the-board 3-percentage point tax cut to all companies, large or small, that manufacture in the United States.

At a time when manufacturing is flat, this 3-percent tax cut can make a real difference to a company's bottom line perhaps bringing up enough capital and creating enough manufacturing growth to enable it or any company to hire in the manufacturing sector.

That is something every Senator would like to see. But because of political games and dilatory tactics by some in the Senate, this relief is not forthcoming.

I want Americans to understand that Senators on my side of the aisle are ready, willing, and able to provide a real shot in the arm to America's manufacturing sector. But after working so long in a bipartisan way, we are being blocked. We are blocked from providing the relief that American manufacturing deserves and needs.

In effect, this bill and the American manufacturing sector are being held hostage to Democratic demands to load this bipartisan legislation with a bunch of unrelated nongermane amendments. While some of these amendments are legitimate, others amount to nothing more than a wish list of political message amendments that have nothing to do with this very major piece of legislation. I, for one, am tired of watching us bide our time contemplating a wish list. American manufacturing needs solutions. It does not need a political wish list.

We have a good bipartisan bill before the Senate, a package that works for America's workers. But our plea for progress is met with nothing but demands for including one more item on some political wish list. You would think adults would make up their minds about what they want and that would be it.

It would be one thing if a political wish list did no harm, if it really didn't matter, or if the JOBS bill moved or not. But for manufacturing it does matter. Delay deprives American manufacturing of a much needed economic boost. Delay also inflicts real economic harm on innocent workers across the country.

The World Trade Organization has authorized the European Union to impose as much as \$4 billion in tariffs in retaliation for our failure to bring our tax laws into compliance with international trade agreements that this body has already accepted—and accepted years ago.

Last month, on March 1, the European Union began implementing these sanctions by imposing an additional 5-percent tax on selected U.S. exports. This 5-percent Euro tax automatically increases by 1 percent for each month in which the United States of America remains out of compliance. Thus, when Members voted against stopping debate last month, the last time this bill was

before this body, they contributed to a 20-percent increase in these tariffs because that additional 1 percent went into effect on April 1. Because of delay, then we have a 6-percent sales tax on our exports to Europe, making a lot of our businesses uncompetitive.

As you can see from this chart, these sanctions will continue to climb unless we act and act fast. In May, they rise another 1-percentage point to 7 percent and continue increasing until they reach a maximum of 17 percent in March of 2005. After that, then who knows what is going to happen. But by then we will have a lot of layoffs and people will wake up to the fact that harm is being done.

The European Union is not bound to cap retaliation at 17 percent. That is why I said: Who knows? In fact, they are scheduled to review the effectiveness of these retaliatory taxes at the end of 1 year. If the Europeans conclude that we are not in compliance, retaliation can escalate even further to a maximum of \$4 billion a year.

If this sounds one sided, America wins more disputes in the World Trade Organization than we lose. We have won some major disputes against Europe. One time we won one about American beef being kept out of Europe. Europe still doesn't like to get some American beef. So we have imposed a tax on European exports coming into our country because that is the legal way of handling these disputes after it has been decided. I use that as an example. Europe has learned a lesson from the United States and they are doing to us what we have done to them. Why? Because in one case Europe did not want to abide by a decision, and in another case, we, up to now, have not abided by a decision. That is why we have the tax. It is quite obvious in most cases countries abide by these decisions. If they did not abide by these decisions, we would have chaos in international trade. We do not.

I make clear to the Members of this body: The effect of voting against stopping debate last month contributed strongly to raising tariffs on our exports by 2 percent. If cloture is not invoked this week, it is certain sanctions will escalate another percentage point, rising an overall level of 7 percent on selected U.S. exports. The core legislation should be very clear: A vote against stopping debate is a vote for higher taxes on our exports.

Which exporters will be hurt? All of them. No, not all of them, because the European Union was very careful in drawing up the sanctions list. In many cases, they chose to impose sanctions on U.S. exports that would most significantly feel the pain of the higher tax tariffs.

They are smart. Thus, highly competitive products with high profit margins are likely to find themselves on the list.

A press release from the American Forest and Paper Association dated

March 2 of this year says this about European Union tariffs on wood product exports:

This is a devastating development for an industry that has already closed more than 220 mills and laid off 120,000 workers since 1997.

Our industry works on such tight profit margins that even a 5 percent tariff will likely price many U.S. wood and paper products out of our vital European markets. To have this happen just as United States wood and paper products are beginning to recover from a decade-long slump does irreparable harm to our industry.

The European Union has chosen products they could get from other countries, hoping that the higher tariffs on U.S. exports will price our products out of the European market, to be replaced by similar products from other foreign competitors. It is important for Members of the Senate to understand the effect of pricing U.S. exports out of the European market is not just temporary. Longstanding business relationships can be permanently disrupted as European buyers scramble to replace cost-prohibited U.S. products. Even if our price may go down, those relationships that are made because of this uncompetitive atmosphere for American exporters may go on and we never gain back that market. Once a replacement from another country is found, there is no guarantee the European buyer will ever buy from the U.S. producer again. In the end, the lost European export market can be lost forever. If the Senate votes down this motion to stop debate this month, the cancer of sanctions will not only continue, it will spread.

On May 1 of this year the European Union will take in 10 more member countries. These countries will be bound by the same import-export regime as France and other European Union countries. Thus U.S. exports to those 10 countries will also face higher tariffs as they try to compete in these markets.

Now we will look at another chart that shows the list of countries that will become part of the European Union starting May 1, 2004: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia. I hope Senators who vote against stopping debate today appreciate they are voting not only to raise the Euro tax on sensitive U.S. exports but are also voting to have that tax applied to an even broader array of countries.

Some people might argue these sanctions only hurt big companies. Do not be fooled. They are big, people might argue, and they can absorb a hit of higher tariffs. The fact is, approximately 90 percent of U.S. exporters in 2001 were small businesses with 100 employees or less. These small exporters can ill afford the sting of sanctions on their bottom line. Products impacted include jewelry, horses, dairy, fruit and vegetables, toys and games, glass and glassware, animal feed, leather goods and handbags, textile products, carpets, footwear, soap and candles, wood

products, and electric machinery. That is just a small list of 500 different products being hit. The American people are starting to take notice.

I read in part from a letter I received from the Carpet Rug Institute headquartered in Dalton, GA, stating:

The United States carpet industry produces 45 percent of the world's carpet and is a \$12 billion per year presence at the mill.

The carpet industry is extremely competitive, both domestically and worldwide, with profit margins cut razor thin.

The potential of an increased duty in the form of a punitive sanction may make the export of carpet and rug products by any United States manufacturer in the European Union market an economic impossibility. For the sake of the collection of an excess tariff an entire industry may be made to suffer.

And we are hearing:

Voices from across the country are asking relief from the escalating Euro tax on our exports.

I will take a look at another letter signed by over 80 businesses and trade associations. These organizations that signed the letter want to emphasize the urgency of resolving the FSC/ETI export tax issue as soon as possible. Quick action on legislation is necessary to both comply with our WTO obligations and avoid or minimize retaliation against U.S. products.

... the European Union has increased the retaliatory tariffs from 5 to 6 percent on as much as \$4 billion per year of American products.

These retaliatory tariffs are hurting the U.S. exports to Europe at a time when they are just beginning to rebound in the global economy and showing signs of renewed growth. Moreover, the tariffs negatively impact American workers.

The letter continues:

We urge the Senate and House to pass FSC/ETI legislation immediately and proceed to conference as soon as possible thereafter.

Thank you ... for doing your part to send FSC/ETI bill to the President's desk without delay, thus minimizing the economically devastating trade sanctions on U.S. products and its impact on American workers who produce them.

These organizations span the entire Nation. This is not regional. Almost every State is going to be impacted by this vote this afternoon.

So let's go to the Northeast: the Virginia Forestry Association, the Associated Industries of Massachusetts, the Coalition of New England Companies for Trade, and the Greater Providence Chamber of Commerce.

From our part of the country, the Upper Midwest—the Presiding Officer is from Minnesota; I am from Iowa—we have the Detroit Regional Chamber of Commerce, the Minnesota Timber Producers Association, the Minnesota Agri-Growth Council, the Missouri Forest Products Association, and the Wisconsin Manufacturers and Commerce.

In the Pacific Northwest, we have the Pacific Coast Council of Custom Brokers and Freight Forwarders and the Softwood Export Council in the Pacific Northwest.

From the West, we have the Utah Manufacturers Association, the Cali-

fornia Manufacturers and Technology Association, and the California Chamber of Commerce.

From the Plains States and the South, we have the Arkansas Forestry Association, the Louisiana Forestry Association, the Mississippi Forestry Association, and the Texas Forestry Association.

From the Southeast, we have the Alabama Forestry Association, the Puerto Rico Manufacturers Association, the Tennessee Chamber of Commerce and Industry, and the North Carolina Forestry Association.

So as you can see, the entire country is impacted by this European tax on our exports to that part of the world. Some of the nationally impacted associations include the Agriculture Retailers Association, the American Architectural Manufacturers Association, the American Cotton Shippers Council, the American Farm Bureau Federation, the American Iron and Steel Institute, the American Peanut Council, the American Soybean Association, the American Textile Manufacturers Institute, the Manufacturing Jewelers and Suppliers of America, the National Association of Manufacturers, the National Corn Growers Association, and the National Cotton Council. And that is just a partial list.

What communication to Members of Congress is all about is businesses crying out for relief—not for the delay that we have already had for 1 month.

Let's be clear about what is at stake. American jobs are at stake because American competitiveness is at stake.

A vote against stopping debate is a vote against tax relief for America's beleaguered manufacturing sector—tax relief that goes beyond nullifying this European tax.

A vote against stopping debate is a vote to prolong the pain across America. A vote against stopping debate is a vote to increase the European tax on American exporters yet more than the 6 percent already there. A vote against stopping debate is a vote to deprive America's small exporters—because 90 percent of our exporters are small businesses of 100 employees or less—continued access to the European market, and access they may never regain.

If my colleagues vote against stopping debate, they might as well be telling American manufacturing that the United States is closed for business; that if you want access to the European export markets, you might as well go overseas and do your business because Members of this Congress have refused to give these manufacturers the tools they need to compete.

There is an answer. Stop—stop playing political games; stop pushing political wish lists; stop jeopardizing economic recovery. Instead, start supporting the ending of debate; start bringing this bill to finality; support stopping debate and start enhancing the economic recovery that is just around the corner in America's manufacturing sector if we do not snuff it

out; support stopping debate and start the process that eliminates the European tax on our exports.

The choice is clear: Vote no, and you might make a few political points but I think just for a short period of time. As this Euro-tax goes up, people are laid off and you lose political points. Vote yes to stop debate and you are guaranteed to get economic progress.

So let's put aside our political games. Stop this debate. Move to finality. Consider legitimate amendments. That is what this place is all about—legitimate amendments, not just making political comment.

I summarize this way: This is like moving the goalposts. We have heard a lot from the Democratic leadership which claims they support this bipartisan bill. That is what we are hearing. I know that is what they are telling their constituents as well. I am afraid the actions of the Democratic leadership speak louder than their words. My sense is that there is a political priority to deny President Bush an opportunity to sign a bipartisan bill either this summer or this fall. It seems that the objective is to prevent that Rose Garden signing ceremony from occurring.

Of course, the victims of this strategy happen to be those companies and those workers who are hit by this Euro-tax as it ratchets up. I hope I am wrong. But the record gives me pause. I would hope that those on the other side would put the interests of firms and workers in their States above that of partisan Presidential campaign strategy. If you look at the record, you will see dramatic movements in terms of the demands of people on the other side of the aisle to promote their political message amendments, most often nongermane.

This chart draws from a favorite activity that we have in the Midwest, for example, every time Iowa plays Minnesota, and I am talking, obviously, about football. This jobs in manufacturing bill is near the Senate goal line. Unfortunately, it seems politics is driving the other side to move the goalposts.

When we came into session in January, Senator FRIST was criticized by the Democratic leadership for not moving right away this very bill, the jobs in manufacturing bill. At that time, the goalpost was clear—just 5 yards away. Then, after we were finished with the highway bill and a couple other bills, Senator FRIST attempted to go to this jobs in manufacturing bill.

Much to my surprise, we were ambushed by the leadership of the other side with unrelated amendments. I thought I had an understanding with the floor manager we were going to do amendments first that were related to the bill and then move to other amendments. That agreement was not carried out. That event caught me off guard. So a second goalpost appeared. It was the overtime amendment of my colleague from Iowa.

Now, it did not matter that we had voted on it previously. It did not matter that the amendment dealt with a proposed—not final but a proposed—Department of Labor regulation. None of that seemed to matter. That amendment was, and is still, a show-stopper to this bipartisan bill. So we are at the second goalpost, as it has been moved.

The demand of the leadership of the other side keeps changing. We were talking about just a single-digit list of amendments and, for the most part, hopefully germane amendments. We are not talking about that anymore. Now, since it looks like an overtime pay vote may be in the picture, there is a goalpost yet further away.

For the first time we are hearing of other amendments—not Finance Committee jurisdiction amendments—such as an increase in the minimum wage, that are new showstoppers.

You can't finish this bill, we are told, even though we are told the substance is great. Nobody seems to disagree on the substance of this. So why can't we get a bill to the President? Even though we don't disagree on the substance, there is still a new goalpost. Heaven help us how all that turns out.

There is a final goalpost way out there; that is, getting to conference. We may move through all the goalposts, but then we may be blocked on whether we get to conference. I hope I am proven wrong in a few minutes as we vote on this measure.

If we can't get cooperation from the other side, we have a couple alternatives: One, to go on with other business; two, to look at reconciliation in late spring. I don't want to go with either of those options because we can finish this bill now. There is always a time when the Senate has goodwill between the two parties represented. That goodwill hopefully will surface just as cream surfaces on milk.

Now it is time to get the job done. I hope we can pass this FSC/ETI legislation. It is bipartisan. That is the only way you get things done in the Senate. Consequently, because it is bipartisan, we ought to get it done. And because it is bipartisan, it deserves better treatment than it has received thus far.

I yield the floor.

### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 1:31 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore (Mr. SUNUNU).

### PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT OF 2004—MOTION TO PROCEED—Continued

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the

hour of 2:15 p.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture on the motion to proceed to the consideration of S. 2207.

Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 462, S. 2207, a bill to improve women's access to health care services and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such service.

Bill Frist, Orrin Hatch, Judd Gregg, John Ensign, Lamar Alexander, Peter Fitzgerald, Larry Craig, John Cornyn, Robert Bennett, Mike Enzi, Mitch McConnell, Ted Stevens, Norm Coleman, James Inhofe, Kay Bailey Hutchison, George Voinovich, Charles Grassley.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 2207, the Pregnancy and Trauma Care Access Protection Act of 2004, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "no."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 66 Leg.]

#### YEAS—49

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nickles
Bennett	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Campbell	Hagel	Specter
Chafee	Hatch	Stevens
Chambliss	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Kyl	Thomas
Collins	Lott	Voinovich
Cornyn	Lugar	Warner
Craig	McCain	
DeWine	McConnell	

#### NAYS—48

Akaka	Byrd	Daschle
Baucus	Cantwell	Dayton
Bayh	Dodd	Dorgan
Biden	Clinton	Durbin
Bingaman	Conrad	Edwards
Boxer	Corzine	Feingold
Breaux	Crapo	

Feinstein	Kohl	Pryor
Graham (FL)	Landrieu	Reed
Graham (SC)	Lautenberg	Reid
Harkin	Leahy	Rockefeller
Hollings	Levin	Sarbanes
Inouye	Lincoln	Schumer
Jeffords	Mikulski	Shelby
Johnson	Nelson (FL)	Stabenow
Kennedy	Nelson (NE)	Wyden

#### NOT VOTING—3

Kerry	Lieberman	Murray
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The motion was rejected.

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 49 and the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

### JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Resumed

#### CLOTURE MOTION

The ACTING PRESIDENT pro tempore. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending motion to Calendar No. 381, S. 1637.

Bill Frist, Charles Grassley, Gordon Smith, James Talent, John Ensign, John Cornyn, Wayne Allard, Olympia Snowe, Rick Santorum, Michael B. Enzi, Mike DeWine, Trent Lott, Christopher Bond, Thad Cochran, Kay Bailey Hutchison, Jim Bunning, Mitch McConnell.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the pending motion to Calendar No. 381, S. 1637, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The yeas and nays resulted—yeas 50, nays 47, as follows:

[Rollcall Vote No. 67 Leg.]

#### YEAS—50

Alexander	Cornyn	Inhofe
Allard	Craig	Lott
Allen	Crapo	Lugar
Bennett	DeWine	McConnell
Bond	Dole	Miller
Breaux	Domenici	Murkowski
Brownback	Ensign	Nelson (NE)
Bunning	Enzi	Nickles
Burns	Fitzgerald	Roberts
Campbell	Frist	Santorum
Chafee	Graham (SC)	Sessions
Chambliss	Grassley	Shelby
Cochran	Hagel	Smith
Coleman	Hatch	Snowe
Collins	Hutchison	

Specter  
StevensTalent  
ThomasVoinovich  
Warner

## NAYS—47

Akaka  
Baucus  
Bayh  
Biden  
Bingaman  
Boxer  
Byrd  
Cantwell  
Carper  
Clinton  
Conrad  
Corzine  
Daschle  
Dayton  
Dodd  
DorganDurbin  
Edwards  
Feingold  
Feinstein  
Graham (FL)  
Gregg  
Harkin  
Hollings  
Inouye  
Jeffords  
Johnson  
Kennedy  
Kohl  
Kyl  
Landrieu  
LautenbergLeahy  
Levin  
Lincoln  
McCain  
Mikulski  
Nelson (FL)  
Pryor  
Reed  
Reid  
Rockefeller  
Sarbanes  
Schumer  
Stabenow  
Sununu  
Wyden

## NOT VOTING—3

Kerry

Lieberman

Murray

The ACTING PRESIDENT pro tempore. On this vote the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The PRESIDING OFFICER. The Senator from South Carolina.

## CHANGE OF VOTE

Mr. GRAHAM of South Carolina. Madam President, on rollcall vote 67 I voted "nay." It was my intention to vote "yea." Therefore, I ask unanimous consent I be permitted to change my vote since it will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. FRIST. Mr. President, I wanted to take a couple moments and update my colleagues on both sides of the aisle as to where we plan on going on a very important bill, the jobs in manufacturing bill that is before us.

The bill itself, first and foremost, is a critically important bill. We have used the almost mnemonic JOBS bill, but it really does affect workers, manufacturing, employment and, thus, it is critical. From talking to the Democratic leadership and our leadership and the chairman and ranking member, we all agree we need to do everything possible to complete this legislation in a timely way because it is important to the American people. We have a bill that passed out of the Finance Committee 19 to 2 which, by definition, means it enjoyed broad and bipartisan support.

Now we have had two cloture votes that have failed. Both of those cloture votes are signals to stop, to obstruct the bill. Yet in our conversations, everybody agrees we need to do everything possible—today, tonight, tomorrow, and tomorrow night—to complete this bill. First and foremost, it is an important bill. From a procedural standpoint and from what we do over the next hour or so, we are working hard to complete the list of amendments we will be addressing. We will hopefully be able to lock in that list at some point in time so we will have a pathway for completion of the legislation.

Thirdly, there is a particular amendment, the Harkin amendment on overtime, on which I have been clear. Once we have a plan to address all the potential scores of amendments in a reasonable way—hopefully staying on amendments that directly impact the content of the bill itself, that are germane, although the interpretation of germaneness varies on this floor—the overtime amendment will be considered and the Harkin amendment will be considered and voted upon. But what we ask is for a list of amendments and a glide path to completion of the bill. Let people vote up or down, yes or no, for or against the bill so that we can bring it to resolution.

First, this bill is important to workers. It is important to our economy. Second, we are completing how we can put together a glide path to finish the legislation. Third, there is the overtime vote and a companion vote that will be side-by-side votes that will take place on the overtime issue. We continue to work hard.

I withdraw the pending motion to proceed.

The ACTING PRESIDENT pro tempore. The motion is withdrawn.

The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EVENTS IN IRAQ

Mr. SMITH. Mr. President, a year ago come Friday, I remember watching with some emotion as the television recorded the events in Baghdad, and an American soldier crawled up a statue of Saddam Hussein and put a chain around its neck and, with the help of American equipment, pulled down that statue to the cheers of a throng of Iraqi people who had suffered for decades under the tyranny of this vicious man, this mass murderer, this fomenter and financier of world terrorism.

I saw that day people hungry for a chance at freedom, hungry for a chance to have a new beginning as a people and as a nation. I remember shedding some tears watching that scene. I reflected at the time that I was watching a piece of American history not unlike the fall of the Berlin Wall, not unlike the surrender of the empire of Japan on the battleship Missouri to General MacArthur, a moment in which I was seeing the values of American foreign policy displayed before the entire Earth.

As a Member of the Senate and as a student of American foreign policy history, I have always taken great pride in the fact that America does not seek the treasury or the territory of other neighbors and nations. But what we do say to the world is: We hold out and spread the values of our Bill of Rights, of our Constitution, of our Declaration of Independence. We hold out values such as democracy, human rights, freedom and liberty, the freedom of enter-

prise, the spreading of peace and prosperity, of domestic tranquility, of promoting the general welfare and providing for the common defense of our people and our friends. To me, that is what American foreign policy is about. I believe that is what it has always stood for.

So it is with particular sorrow that I reflect upon some of the commentary upon our current action in Iraq. I was a new Member of the Senate. I had been here 2 years when President Clinton came to this body and asked that we issue a resolution that called for regime change in Iraq.

President Clinton, after the expulsion of U.N. weapons inspectors, felt compelled to rain bombs on Baghdad for 4 days and 4 nights in order to hit those targets where we believed weapons were held because they had been declared, but not disclosed. President Clinton wisely warned that, based on the intelligence he and other nations had in common, we would fight them now or fight them later.

President Clinton's warnings took on greater urgency for this Senator and for many of my colleagues in the light of 9/11, when still declared but undisclosed weapons of mass destruction were in the hands of a terrorist nation and a sponsor of terrorism like Saddam Hussein. We felt compelled to pursue the policy we all voted upon, to change the regime in Iraq for the safety of the American people, for the safety of the free world.

As I recall that resolution, it was darn near unanimous, if not so. My pride in that vote is we did it together, Republicans and Democrats. Yet it is disappointing to me, as a Republican who stood with President Clinton on so much foreign policy during the 1990s, when President Bush, after 9/11, asked for support and following through on that resolution and 17 U.N. resolutions, this conflict has become increasingly politicized.

I think it is important in my comments and in those of my colleagues that we not question the patriotism of any of our colleagues who voted otherwise or any of our colleagues who believed this is not the right action. But I do think it appropriate to question the wisdom of those who would undermine this American initiative at a time when we need unity.

The comparison was made by one of my colleagues this is Vietnam again. I think it is important, if we want to make that comparison, we point out how many inconsistencies there are to Vietnam. But I think it is also well to remember Ho Chi Minh said the Vietnam war would not be won by them in the streets of Saigon, but in the streets of San Francisco, Chicago, New York, and Washington. The whole point of his comment at that time was the way you beat America is not to beat them militarily but to beat their will at home. I think that is what is being called into question.

What is our will? What are our purposes? For this Senator, my will is we

must win. My vote has been for this action, both under President Clinton and now under President Bush. It is unfortunate that some now call for policies which amount to retreat and loss. I cannot think of a more devastating result for America's place and purpose in this world than for us to fail at this time.

We must win. We must not have the will of the American people broken to the naysayers of today. We have to continue to stand up for the values of freedom embodied in our founding documents, the values of democracy, the values of human rights, the values of enterprise and freedom. Those are the things we hold out to the people of Iraq.

I was stopped in the hall by a reporter who asked if in fact it was true American military forces fired a missile into a mosque in Baghdad. I did not know the answer until I inquired. Now it is all on the news and, in fact, there was a missile fired in the direction of a mosque. The reason it was because five American soldiers were shot from that mosque as they tried to advance through the streets to secure the security of that area.

I say for the record murderers and terrorists must not find sanctuary behind the cloak of religion in any place. There should be no sanctuary for people such as these. So if the American forces made the decision to fire where they were being fired upon, I say: Well done and do it again. Let them find no sanctuary anywhere if their purpose is to deny the American forces the ability to provide security, if their purpose is to undo this Nation's effort in establishing democracy for the people of Iraq. They have suffered too long; they have suffered torture, maiming, rape rooms, weapons of mass destruction, at the hands of a brutal dictator. There are a few—I mean a decided minority—in Iraq who will not win from the values we enjoy because they won under the tyranny of Saddam Hussein. They must not be allowed to win now.

I plead with my colleagues, patriots all, be careful in the words we use, be wise in what we say, so we do not give aid and comfort to the enemies of that country, the fomenters of terrorism; that we do what we have set out to do, and that is to remove a regime that was bent on tyranny, fomenting terror, and financing it wherever it could; and that we follow through with the promises made by this Government and the previous one, President Clinton and President Bush, that democracy can have a new beginning—in fact, a first chance—on the streets of Arabia. This is our purpose, and may we win. We will win sooner if we watch our words and we weigh them on the scales of wisdom.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The ACTING PRESIDENT pro tempore. The pending business is S. 1637, the JOBS Act.

Mr. DODD. Mr. President, I ask unanimous consent that I may be allowed to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRATULATING THE MEN'S AND WOMEN'S UNIVERSITY OF CONNECTICUT BASKETBALL TEAMS

Mr. DODD. Mr. President, I rise with a strong note of celebration in my voice on behalf of my small State. The presiding officer lives in the same region of the country I do, so I suspect there is a sense of collective regional pride as well.

I am sorry my colleague Senator LIEBERMAN isn't here. He will be here tomorrow. Today is a religious holiday, so he could not be in the Senate today. I am sorry he is not here on one level; but on another level, every time one of the University of Connecticut teams wins, he does the UCONN cheer on the floor of the Senate, which causes his senior colleague a significant degree of embarrassment. He knows this, and I think he enjoys doing it when I am here. So, the one piece of good news I have is I won't have to listen to that cheer tomorrow because I myself will be away tomorrow.

I want to take a few minutes to recognize and celebrate a remarkable historical achievement that occurred both on Monday and Tuesday nights of this week. I speak of the men's and women's national collegiate basketball championships. Never before in history has a single university captured both of those titles in the same year, so my colleagues and others, I am sure, will understand the sense of pride we all feel in Connecticut for the tremendous historic accomplishments of these two wonderful teams—both the men's and women's teams. UCONN's achievement is stunning all the more because when you consider the previous four times in history a school sent both of its men's and women's teams to the Final Four in the same year, those schools failed to come away with so much as one national championship, let alone two in the same year.

Let me briefly recognize both of these teams. While it is certainly a university-wide celebration over the accomplishments of both, each deserves a moment of special recognition for their achievement.

I will begin with the men's team. Those who follow college basketball will recall on the cover of "Sports Illustrated," the University of Connecticut men's team was predicted to win the national championship.

They were the No. 1 ranked team in the country. Shortly thereafter, in November, they faced, ironically, a Georgia Tech team which handed them a rather significant defeat. Irony I say because it was Georgia Tech that the University of Connecticut faced on Monday night for the national championship.

All told, the UConn Huskies would lose six games all season. For most teams, that would be reason to celebrate, having won 33 games and losing 6. In the Huskies' case, with each loss, more and more people around the country began to doubt whether the University of Connecticut's team had what it would take to go on to win a national title.

To make matters worse, throughout the season, the Huskies' outstanding center, Emeka Okafor, was troubled with a series of back injuries and spasms and was unable to play at his full measure of capability. He was certainly the heart and soul of the team. He scored points, grabbed rebounds, and blocked shots. He is the leader in the country in that last category.

His accomplishments went far beyond his statistics. His mere presence on the floor was fundamentally enough to alter the game. He is that much of a leader.

Even more impressive than Emeka's athletic credentials are his academic ones. We fail to promote academic success. Emeka Okafor is not only the No. 1 basketball player in the country, but he is also the Big East Scholar-Athlete of the Year and the National Academic All-American of the year.

While he was putting up impressive numbers on the basketball court, Emeka was an all-star in the classroom as well. He earned his degree in finance in 3 years with a GPA in excess of 3.8.

A lesser team might have given up hope after losing a player of Emeka Okafor's ability, but a pivotal series was the Big East Tournament where he had to sit out two games. Ben Gordon, a very talented guard for the University of Connecticut, took over the leadership role, along with Rashad Anderson, Taliek Brown, and others. They went on to win six straight games and capture the national title.

One of the most important games, of course, was the Saturday night game in which by a margin of 1 point, UConn defeated the Blue Devils—a very heated rivalry going back a number of years—facing a remarkable Duke team under the leadership of Mike Krzyzewski. We are all very appreciative of his abilities and the teams he put together, but beating Duke has a special significance in the UConn-Duke rivalry. We are very proud of the men's team. They had a terrific season. They certainly deserve some special recognition. Jim Calhoun, who is a good personal friend of mine—I am very proud of Jim's accomplishments. My only regret is that on Monday he was not selected to be in the Hall of Fame. I think he deserved it.

If it was up to my vote, he would have had it. His accomplishments over the years, both at Northeastern and the University of Connecticut, more than qualify him for a special place in the Basketball Hall of Fame. Being only one of three active coaches at the collegial level to have won two national championships, Jim Calhoun deserves a spot in the Hall of Fame. I am

confident he will get one soon. I am sorry it did not occur on the day he won another championship, on Monday.

My congratulations to Jim for a wonderful season, a great leadership on that team. His assistant coaches, Tom Moore, George Blaney, and Clyde Vaughan—good friends of mine—and the players, Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, I mentioned Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villanueva, Marcus White, and Marcus Williams, all made significant accomplishments.

The women's team, of course, was also a great success. This is the third consecutive national championship they have won, really a remarkable record only having been achieved once before, ironically, by the Tennessee team they defeated last evening under the leadership of Pat Summitt.

Over the past decade or so, the UConn women's basketball team has become synonymous with excellence across the country. The numbers they have piled up are rather staggering: 5 national titles, 8 appearances in the Final Four, and a record winning streak of 70 consecutive games. Over the same period of time, women's basketball in America has experienced an enormous surge in popularity, and the University of Connecticut women are a major reason why. They have been an inspiration to young girls all across our Nation who dream of being basketball stars. Their combination of athletic skills, academic excellence, and good sportsmanship have made them role models for young men and young women across the country.

Things did not come easily for this women's team this year. Much like the men's team, the women's team had a tough run in the early days. On January 3, they lost a heartbreaker to Duke by 1 point. It was their first home loss in 4 years. For the second straight year, they were eliminated in the Big East Tournament. This year, when the seedings were announced for the NCAA Tournament, UConn received the No. 2 seed, meaning they were not even favored to make it to the Final Four. But as they have done so many times in the past, this wonderful team of talented young women exceeded all expectations. They were led, once again, by the outstanding All-American senior, Diana Taurasi, the National Player of the Year. She is a remarkable athlete, a remarkable person, not unlike Emeka Okafor. She is a presence on the floor. Anyone who watched the game last evening, a wonderful game between Tennessee and the University of Connecticut, could see this remarkable young woman and the leadership she brought to her team.

The team has gone 22-1 in tournament games under Diana Taurasi's storied career. She is only the fifth player to win two Naismith Player of the Year awards.

She has scored the second most points of any player in the women's NCAA Tournament history. She was also named Outstanding Player of the Year in the Final Four.

It was a great game last evening against Tennessee. It has been a wonderful rivalry. Unlike the University of Connecticut and Duke rivalry, the University of Connecticut and Tennessee rivalry is a great one.

My friend from Tennessee, the majority leader, I point out very graciously, about 8:15 last evening, about 15 minutes prior to the UConn-Tennessee game, called and offered a polite wager. I am somewhat disturbed by it. I appreciate it. He offered to wager that if UConn won the game that he would supply me with as many spareribs as I could eat. For a heart surgeon, who happens to be the majority leader, to offer a Democratic member of the Chamber a pile of spareribs makes me wonder what his ultimate goal may have been in that wager.

I have won the wager. I offered him a high protein, very low caloric Connecticut River shad, of which the Presiding Officer is well aware. The Connecticut River provides a border of his State.

Connecticut River shad is high in protein, low caloric, the kind of proposal one would think a heart surgeon would propose. No, he offered spare-ribs—thick, juicy, fat-loaded spare-ribs—for this senior Senator from Connecticut to consume. I will share those with any good Republicans I can find in my State as part of those winnings.

I conclude by congratulating the women's coach Geno Auriemma, who is a wonderful friend, as well as Jim Calhoun. He has had a wonderful career at the University of Connecticut, and has been a wonderful role model for players, coaches, and others. He is very active in our State, as is Jim Calhoun. It goes beyond their leadership of the basketball programs. He is very active in philanthropic programs throughout our State, and is always willing to appear at various events on behalf of worthy causes.

My congratulations to Geno Auriemma for the terrific job he has done, his assistant coaches, Chris Dailey, a wonderful assistant coach over the years, Tonya Cardoza, and Jamelle Elliott. And the players: I mentioned Diana Taurasi, Ashley Val-ley, Kiana Robinson, Maria Conlon from Derby, CT, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Willnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother. Ann played a wonderful game last night, as did Maria Conlon, and also the forwards on that team, Barbara Turner and Willnett Crockett, were terrific as well.

Congratulations to these two great teams. I have taken a longer time. When you have two national champions at the same university in the same year, I hope my colleagues will accept my apologies for taking more

time than would normally be the case. We have to export our sport allegiance. We have no professional teams in my State. As my colleague knows, in Connecticut you can almost tell where somebody lives by asking them whether they are a Red Sox or a Yankee fan, a Rangers or Bruin fan, a Knicks or Celtics fan. Connecticut is equally divided in its sports allegiance.

So all my life I have had to embrace teams outside of my own State. This wonderful collegiate athletic performance by the University of Connecticut has given us a wonderful sense of pride in our State. In the midst of otherwise bad news coming out of other parts of the world, I thought I would offer this tidbit of good news from a small corner of our country called Connecticut, with great pride for these wonderful athletes and their coaches, and fans at the University of Connecticut and throughout our State.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Minnesota.

Mr. DAYTON. Mr. President, I congratulate my colleague on the success of his two teams, both of which were truly outstanding. I particularly commend his women's basketball team because before their showdown with Tennessee, they beat an outstanding team from the University of Minnesota, which reached the semifinals and the final four for the first time in the team's history and was led by two outstanding players, Lindsay Whalen from Minnesota and Janel McCarville from the neighboring State of Wisconsin, but we have adopted her as a Minnesotan now, and the two of them have achieved the distinction of being Kodak all-Americans. They led the team, which gave us enormous pride in Minnesota, until they met an outstanding Connecticut team. And they had an excellent game on Sunday night, which, unfortunately, from our standpoint, went Connecticut's way. But the Senator certainly has two teams of which to be very proud.

I also might note, as the Senator from Connecticut knows because we have had the occasion to be at the White House together, President Bush has very graciously the last years that I have been there invited the winners of the women's and men's basketball championships and the winners of the men's and women's hockey national championships to the White House for a ceremony.

I am pleased to say I will be joining the Senator from Connecticut again this year because the University of Minnesota women's hockey team won the national championship the week-end before and, in fact, the University of Minnesota-Duluth men's hockey team is in the chosen four which begins this Thursday night. So I am very hopeful we will have only Senators from two States attending that ceremony from Connecticut in basketball and Minnesota in hockey. But in either event, thanks to the outstanding performance of the Minnesota women's



hockey team, which I must acknowledge as a Yale graduate defeated Harvard 6 to 2 in the finals, much to my enormous satisfaction, but just had a terrific year, it was rated No. 1 throughout the year and prevailed in the national championship. It shows, as the Senator noted, women's basketball is the same as women's hockey. Under the auspices of title IX and the opportunities now that have been given to women athletes starting as young girls, they have equal opportunity to play these sports. Their talents and skills are every bit as good as men's, and they are phenomenal athletes and delights to watch as they play these games with the highest level of proficiency. It is something that as Americans we should be proud of, the fact that we have made that advance and that girls are no longer relegated to being cheerleaders for men's sports or boys' sports, as they were when I was growing up, but now have shown themselves to be remarkable athletes in their own right far advanced to anything that I could have accomplished as a meager athlete back in my day.

So I will see the Senator at the White House.

Mr. DODD. If my colleague would yield, and I appreciate the comments and give congratulations, the Minnesota women's team is a great team. In fact, a mutual friend of ours, a former member of the other body and I, Rick Nolan, who my colleague knows very well, talked the other night, and after the game he told me that Geno Auriemma, coach of the women's team, was quoted extensively in the Minnesota newspapers and radio stations on commending the Minnesota team. He said it reminded him very much of an earlier UConn women's basketball team when they were starting out. I cannot tell the Senator how impressed I was with Miss Whalen and Miss McCarville. They are great players. I love their tenacity and emotion. Your coaches—you have had three coaches in 3 years—have had some difficult times to go through. I thought the game between Minnesota and Duke was one of the great women's basketball teams of all time. I suspect we are going to hear a lot more from Minnesota not only in hockey but in basketball as well.

I am glad my colleague mentioned title IX. I meant to mention it as well. Back in January, I invited a former colleague of ours, Birch Bayh of Indiana, to come to Connecticut to a women's basketball game. The reason I invited our former colleague and the father of our present colleague, EVAN BAYH, was because in 1972, Birch Bayh was the author of title IX. There were a lot of other Members involved; I do not want to suggest he was the only one, but he was the principal author of title IX. I thought he might like to come and watch what a change he had made in America.

It was not solely because of Birch Bayh, but he certainly deserves to be recognized for authoring that bill. To

give my colleague some idea, about 15 years ago a national championship game for the women's basketball game drew maybe 1,500 people. Last night, there were 19,000 people in New Orleans to watch the game. I suspect millions across the country were tuned in to watch Tennessee and the University of Connecticut play.

So we brought Birch Bayh to Connecticut on that day when the University of Connecticut was playing Notre Dame. We had about 15,000 people on hand that afternoon, and at halftime we had some of the leaders of the women's teams over the years. We had a group of younger women just starting out at center court. Birch Bayh received a standing ovation from 15,000 people in Connecticut because he made a difference in this sport.

As my colleague has said, to see fathers and daughters, fathers and granddaughters, young boys and sisters coming to watch these young, remarkable women athletes, created a change in our country for the better. I look forward to the day when we will gather at the White House—I am confident President Bush will do this again because of his great love of sport—when he invites the men's and women's basketball teams from the University of Connecticut. Let me go on record today inviting, as well, not only the women's hockey team from Minnesota but the men's hockey team from Minnesota.

I thank my colleague for his nice compliments about Connecticut.

Mr. DAYTON. I thank my colleague. I think we are in a position where we can come to an agreement on that. I am not sure many of our colleagues would agree, but the Senator is right. In fact, I read over the weekend that the women's semifinal basketball games outdrew the men's in the national televised audience. That is not to say anything disparaging about the men because they had an outstanding tournament as well. It shows the popularity of the sport among all Americans. Certainly, the skill level to which it is played is something that anybody, even a couch potato like this Senator, can enjoy.

The Senator is right, also, that the President has been extremely gracious in hosting these teams. I think he recognizes how much of a thrill it is for the teams that have dedicated themselves all year to this level of national proficiency to be able to be recognized by the President of the United States; it is a great achievement for all of them. I look forward to the President's invitation. He has been very gracious in the past, and I look forward to joining my friend, the Senator from Connecticut.

Mr. President, I yield the floor.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SAFE ACT

Mr. DURBIN. Mr. President, I rise today to urge my colleagues to cosponsor S. 1709, the Security and Freedom Ensured Act, the SAFE Act, which Senator LARRY CRAIG and I have introduced with several of our colleagues from both sides of the aisle.

The SAFE Act is a narrowly tailored bill that would revise several provisions of the USA PATRIOT Act. It would safeguard the rights of innocent Americans without impeding law enforcement's ability to fight terrorism. The SAFE Act is supported by a broad coalition of organizations and individuals from across the political spectrum.

I challenge any of my colleagues to find the broad base of political support for virtually any bill that we have found for the SAFE Act.

I voted for the PATRIOT Act. I believed then and I still believe that the act made many reasonable and necessary changes in the law. However, the PATRIOT Act contains several provisions that do not adequately protect innocent Americans from unwarranted Government surveillance. The FBI now has broad authority to obtain a "John Doe" roving wiretap which does not identify the person or place being tapped. The FBI has authority now to conduct sneak-and-peek searches and to seize personal records.

The PATRIOT Act was passed at a critical moment in the history of the United States. It was a moment of tragedy and fear. Now with more than 2 years of hindsight and experience, it is time to revisit this law.

I can recall—and I am sure all who followed this debate can remember—how we felt after September 11. Just a few steps away from this Chamber, I was meeting in a room with Senator DASCHLE and a group of Senators and we saw on television the images which every American has seared in their memory. Then someone suggested a bomb had gone off at the Pentagon. We gathered by the windows and looked down this beautiful Mall toward the Washington Monument and saw black smoke billowing across the Potomac, unaware at that moment another airplane had struck that building, killing many innocent Americans.

It was a time of great concern and great anxiety and great unity. The administration came to us and said to the Congress, Give us the tools to find the people responsible for this terrible American tragedy. Give us what we need to protect Americans and to fight the war on terrorism.

In a rare showing of bipartisan support, Democrats and Republicans came together and addressed some of the most difficult and complicated questions about Government authority and

individual freedom we have had to address in our history. I am proud to say in a short period of time there was a bipartisan consensus, a consensus which tried to work out the best way to meet the requirements of the administration and to make America safe.

Many of these provisions were worrisome. We were not certain whether we had gone too far in giving the Government more authority and Americans fewer freedoms than necessary. So we included in the PATRIOT Act sunset provisions. Basically, what that means is that over some period of time, a year or two, these provisions would expire and be subject to renewal and re-approval by Congress. Of course, at that point we would be forced to assess their impact.

Interestingly, since that day, from some quarters, the volume has grown in support of basically eliminating the sunset provisions and saying this will be permanent law and we will not revisit it. However, many have looked at the PATRIOT Act, including Senator CRAIG and myself, and feel there are four specific areas of the Act that should be amended by our SAFE Act. Senator CRAIG, a Republican, and myself, as a Democrat, reached across the partisan divide to work together on this bill. It is quite an unusual political marriage. Senator JOHN SUNUNU, also a cosponsor, joked that when Senator CRAIG and Senator DURBIN introduce a bill together, it proves one thing: One of them must not have read it.

Well, that is not true. We have both read the SAFE Act. Our cooperation on this piece of legislation speaks volumes about the need to make changes in the PATRIOT Act.

Some claim because we are at war, the American people want the Government to keep them safe, no matter what. I think they are wrong. The American people care very deeply about their freedoms. They are watching Congress carefully and they are concerned that perhaps in some areas we went too far in passing the PATRIOT Act. I have heard from a lot of my constituents. 275 communities in 39 states have passed resolutions expressing concern about the provisions of the PATRIOT Act. These communities represent close to 50 million Americans. Almost one out of every six Americans has, through their elected representatives in their communities, expressed some concern about the provisions of the PATRIOT Act.

Let me be very frank about the bill itself. The PATRIOT Act was over 130 pages long. It is very complicated. Most Americans have not read every word of it. Many Americans who may not be able to explain the exact details of the PATRIOT Act still are concerned it is restricting their freedoms unnecessarily.

Some argue this means we should not take the American people so seriously because they cannot cite specific sections of the bill. I disagree. There is no

reason to dismiss these public concerns. And this is no excuse for inaction. The burden of proof is not on the American people when the Government seeks to take away their rights and liberties. The burden of proof is on the Government.

What is clear is the American people want us to strike a balance, give the FBI and law enforcement and intelligence agencies the powers they need to fight terrorism but also to protect American liberty. That is what the SAFE Act would do.

An unusual thing has occurred with the introduction of this bill. I have been on Capitol Hill for over two decades working in the House and in the Senate. I have never seen this happen before. The Bush administration announced with the introduction of the bill they would veto it. The bill has not been considered before a committee. It has not been subject to amendment in committee. It has not been debated in committee. It has not come to the floor of the House or the Senate, nor has it been subject to debate and amendment there. There is no final work product, only the initial offering by Senator CRAIG and myself.

Based on that and that alone, the Bush administration has said they are going to oppose this bill and they are going to veto this bill. I have never seen anything quite like that.

The Justice Department argues our bill would eliminate some PATRIOT Act powers and make it even more difficult to effectively fight terrorism. Frankly, these objections do not hold water. The SAFE Act neither repeals any provision of the PATRIOT Act nor amends pre-PATRIOT Act law. In fact, the SAFE Act retains the expanded powers created by the PATRIOT Act while placing important checks on these powers.

Senator CRAIG and I wrote a letter responding in detail to the Justice Department's objections to the bill and their threat to veto the bill, which has not even passed either the House or the Senate.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

COMMITTEE ON THE JUDICIARY,

Washington, DC, February 23, 2004.

Hon. ORRIN G. HATCH,

Chairman, Senate Committee on the Judiciary,  
Hart Senate Office Building, Washington,  
DC.

DEAR MR. CHAIRMAN: We write to request that you schedule a hearing in the Judiciary Committee as soon as possible on S. 1709, the Security and Freedom Ensured (SAFE) Act, a narrowly-tailored, bipartisan bill that would amend several provisions of the USA PATRIOT Act (P.L. 107-56). We would also like to take this opportunity to respond to concerns the Justice Department has raised regarding the SAFE Act.

We voted for the PATRIOT Act and believe now, as we did then, that the PATRIOT Act made many reasonable and necessary changes in the law. However, the PATRIOT

Act contains several provisions that create unnecessary risks that the activities of innocent Americans may be monitored without adequate judicial oversight.

This concern is shared by a broad coalition of organizations and individuals from across the political spectrum. In fact, 257 communities in 38 states—representing approximately 43.5 million people—have passed resolutions opposing or expressing concern about the PATRIOT Act. Groups as politically diverse as the ACLU and the American Conservation Union have also endorsed changes in the law.

In his State of the Union address, the President called for reauthorization of the PATRIOT Act. Given the bipartisan concerns about the most controversial provisions of the law, however, this will not happen unless these provisions are revisited. Congress, in fact, made oversight of the PATRIOT Act implicit by sunseting over a dozen sections of the bill at the time of its passage.

S. 1709, the SAFE Act, was drafted with this oversight in mind. It was drafted to clarify and amend in a minor way the PATRIOT Act's most troubling provisions so that whole or even piecemeal repeal of the law would be unnecessary. It was drafted to safeguard the liberties of law-abiding citizens while preserving the law enforcement authorities essential to a successful war on terror.

The Administration unfortunately has threatened to veto the SAFE Act. The Justice Department argues that the SAFE Act would "eliminate" some PATRIOT tools and "make it even more difficult to mount an effective anti-terror campaign than it was before the PATRIOT Act was passed."

We respectfully disagree with the Justice Department's objections to our reasoned and measured effort to mend the PATRIOT Act. The SAFE Act neither repeals any provision of the PATRIOT Act, nor impedes law enforcement's ability to investigate terrorism by amending pre-PATRIOT Act law. Rather, the SAFE Act retains the expanded powers created by the PATRIOT Act while restoring important checks and balances on powers including roving wiretaps, "sneak and peek" warrants, compelled production of personal records, and National Security Letters.

#### ROVING WIRETAPS

The SAFE Act would place reasonable checks on the use of roving wiretaps for intelligence purposes. Normally, when the government seeks a warrant authorizing a wiretap, its application must specify both the target (the individual) and the facilities (the telephone or computer) that will be tapped. Roving wiretaps, which do not require the government to specify the facilities to be tapped, are designed to allow law enforcement to track targets who evade surveillance by frequently changing facilities. Before the PATRIOT Act, roving wiretaps were only permitted for criminal, not intelligence, investigations. The PATRIOT Act authorized the FBI to use roving wiretaps for intelligence purposes for the first time.

Using roving wiretaps for intelligence purposes is important. Unfortunately, the PATRIOT Act did not include sufficient checks to protect innocent Americans from unwarranted government surveillance. Under the PATRIOT Act, the FBI is not required to determine whether the target of the wiretap is present at the place being wiretapped, as it is for criminal wiretaps.

The Intelligence Authorization Act of 2002 made another dramatic change in the law. The FBI is now permitted to obtain a "John Doe" roving wiretap for intelligence purposes, an authority not authorized in any other context. A "John Doe" roving wiretap does not specify the target of the wiretap or

the place to be wiretapped. In other words, the FBI can obtain a wiretap without saying whom they want to wiretap or where they want to wiretap.

The Justice Department defends this authority by noting that even if the target of the wiretap is not identified, a description of the target is required. The law does not require the description to include any specific level of detail, however. It could be as broad as, for example, "white man" or "Hispanic woman." Such a general description does not adequately protect innocent Americans from unwarranted government surveillance.

The SAFE Act would retain the PATRIOT Act's authorization of roving wiretaps for intelligence purposes but impose reasonable limits on this authority. Law enforcement would be required to ascertain the presence of the target before beginning surveillance and identify either the target of the wiretap or the place to be wiretapped. The FBI would not be able to obtain "John Doe" roving wiretaps, thereby ensuring that the government does not surveil innocent Americans who are not the target of the wiretap.

The Justice Department argues that "John Doe" roving wiretaps are necessary because there may be circumstances where the government knows a target's physical description but not his identity. If the government is tracking a suspect closely enough to utilize a wiretap, it is unlikely his or her identity will be unknown to them. In this unusual circumstance, the SAFE Act would permit the issuance of a "John Doe" wiretap which would not identify the target but rather the facilities to be wiretapped. If the government wished to obtain a roving wiretap, they could do so by identifying the target. It is important to note that the government is not required to identify the target by his or her actual name. The government, for example, could identify the target by an alias. This level of detail should be required to make clear who is being targeted to prevent innocent people with no relationship to the target from being spied upon.

#### "SNEAK AND PEEK" SEARCHES

The SAFE Act would impose reasonable limits on the issuance of delayed notification (or "sneak and peek") search warrants. A sneak and peek warrant permits law enforcement to conduct a search without notifying the target until sometime after the search has occurred. The Justice Department argues that sneak and peek warrants for physical evidence "had been available for decades before the PATRIOT Act was passed," but such warrants were never statutorily authorized before the passage of the PATRIOT Act. Too, though some courts have permitted sneak and peek warrants in limited circumstances, the Supreme Court has never ruled on their constitutionality.

In codifying sneak and peek warrants, Section 213 of the PATRIOT Act did not adopt limitations on this authority that courts had recognized. For example, courts have required a presumptive seven-day limit on the delay of notice. Section 213 requires notice of the search within "a reasonable period," which is not defined. According to the Justice Department, this has resulted in delays of up to 90 days, and of "unspecified duration lasting until the indictment was unsealed."

Section 213 authorizes issuance of a sneak and peek warrant where it finds that providing immediate notice of the warrant would have an "adverse result," as defined by 18 U.S.C. Section 2705. Section 2705, which allows delayed notice for searches of stored wire and electronic communications, defines adverse result very broadly, including any circumstances "otherwise seriously jeopardizing an investigation or unduly delaying a trial." This catch-all provision could argu-

ably apply in almost every case. A sneak and peek search of a home involves a much greater degree of intrusiveness than a seizure of wire or electronic communications, so this broad standard for delaying notice is inappropriate. Section 213 also does not limit delayed notification warrants to terrorism investigations, and unlike many surveillance-related PATRIOT Act provisions, does not sunset.

Last year, an overwhelming majority in the House of Representatives voted to repeal Section 213. The SAFE Act would not go nearly this far. It would place modest limits on the government's ability to obtain sneak and peek warrants, while still permitting broad use of this authority.

The SAFE Act would still authorize a sneak and peek warrant in a broad set of specific circumstances: where notice of the warrant would endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant. Importantly, it would eliminate the catch-all authorization of sneak and peek authority in any circumstances "otherwise seriously jeopardizing an investigation or unduly delaying a trial." It would require notification of a covert search within seven days, but would authorize unlimited additional seven-day delays so long as any circumstance that would justify a delay of notice continues to exist. According to the Justice Department, "the most common period of delay" under Section 213 is seven days, so a seven-day limit with court-authorized extensions is not overly onerous but would prevent abuse.

The Justice Department states that the SAFE Act imposes restrictions on the issuance of sneak and peek warrants that could tip off terrorists, and "thus enable their associates to go into hiding, flee, change their plans, or even accelerate their plots." To the contrary, the SAFE Act would authorize issuance of a sneak and peek warrant in all of these circumstances. If notice of the warrant could lead terrorists or their associates to hide or flee, a court could delay notice to prevent flight from prosecution. If notice of the warrant could lead terrorists or their associates to change or accelerate their plots, a court could delay notice to prevent the resulting danger to life or physical safety. The Constitution protects the sanctity of our homes, and we should only allow this sanctity to be breached in such serious circumstances.

#### COMPELLED PRODUCTION OF PERSONAL RECORDS

The SAFE Act would place reasonable checks on the government's authority to compel production of library and other personal records. Section 215 of the PATRIOT Act permits law enforcement to obtain such records without individualized suspicion and with minimal judicial oversight. Before the PATRIOT Act, FISA authorized the FBI to seek a court order for the production of records from four types of businesses: common carriers, public accommodations facilities, physical storage facilities, and vehicle rental facilities. In order to obtain such records, the FBI was required to state specific and articulable facts showing reason to believe that the person to whom the records relate was a terrorist or a spy. If a court found that there were such facts, it would issue the order.

Under FISA as modified by Section 215, the FBI is authorized to compel production of "any tangible things (including books, records, papers, documents, and other items)" not just records, from any entity, not just the four types of businesses previously covered. The FBI is only required to certify that the records are "sought for" an

international terrorism or intelligence investigation, a standard even lower than relevance. The FBI need not show that the documents relate to a suspected terrorist or spy. If the FBI makes the required certification, the court no longer has the authority to examine the accuracy of the certification or ask for more facts to support it; the court "shall" issue the order. Defenders of Section 215 frequently assert that the issuance of an order for records requires court approval, but this type of court approval amounts to little more than a rubber stamp. The PATRIOT Act gives the government too much power to seize the personal records of innocent Americans who are not suspected of involvement in terrorism or espionage.

The SAFE Act retains the PATRIOT Act's expansion of the business records provision to cover "any tangible things" and any entity. It would reinstate the pre-PATRIOT Act standard for compelling production of business records, which requires individualized suspicion. The FBI would be required to certify that there are specific and articulable facts giving reason to believe that the person to whom the records relate is a terrorist or a spy. A court would be required to issue the order if it found that there are such facts. The SAFE Act would thus prevent broad fishing expeditions which waste scarce government resources, are unlikely to produce useful information, and can infringe upon privacy rights.

The Justice Department argues that this standard is inappropriate because it is higher than the relevance standard under which federal grand juries can subpoena records. This ignores some crucial distinctions. The recipient of a grand jury subpoena can challenge the subpoena in court and tell others, including those whose records are sought, about the subpoena. In contrast, the recipient of a Section 215 subpoena cannot challenge the subpoena in court and is subject to a gag order. The scope of a federal grand jury is limited to specific crimes, while an intelligence investigation is not so limited.

Finally, it is very important to note that, in the more than two years since the passage of the PATRIOT Act, Section 215 has never been used. If the authority has never been used during this time of great national peril, it is difficult to understand how imposing some reasonable checks on it could cripple the war on terrorism. Indeed, the government offers no examples, real or imagined, in which the SAFE Act's revisions of Section 215 would hinder counterterrorism efforts.

#### NATIONAL SECURITY LETTERS

The SAFE Act would impose reasonable limits on the issuance of National Security Letters (NSLs). Section 505 of the PATRIOT Act allows the FBI to use NSLs to obtain personal records without individualized suspicion. An NSL is a document signed by an FBI agent requiring disclosure of financial, credit and other personal information and requiring the recipient not to disclose the request to the individual whose records are being sought. It does not require judicial or grand jury approval.

Before the PATRIOT Act, the FBI could issue an NSL to obtain records from a wire or electronic communication service provider by certifying that it had reason to believe that the person to whom the records relate is a terrorist or a spy. The approval of FBI headquarters was required.

Section 505 of the PATRIOT Act allows the FBI to issue an NSL simply by certifying that the records are "sought for" a terrorism or intelligence investigation, regardless of whether the target is a suspect. Headquarters approval is no longer required. Unlike many other surveillance-related PATRIOT Act provisions, the expanded NSL authority does not sunset.

The SAFE Act would retain the PATRIOT Act's lower standard for the issuance of NSLs and its delegation of issuing authority to field offices. It would simply clarify that a library is not a "wire or communication service provider," which from the plain meaning of the words, it is not. The FBI could still obtain information regarding e-mails or other communications that took place at libraries by issuing an NSL to the library's wire or communication service provider.

The Justice Department states that the SAFE Act would "extend a greater degree of privacy to activities that occur in a public place than to those taking place in the home." We disagree. The SAFE Act would simply ensure that the FBI issues the NSL to the service provider, which is the appropriate recipient, rather than a community library, which is ill-equipped to respond to such a request.

#### EXPANDING THE SUNSET CLAUSE

The SAFE Act would expand the sunset clause of the PATRIOT Act to ensure Congress has an opportunity to review provisions of the bill that greatly expand the government's authority to conduct surveillance on Americans. Many of the PATRIOT Act's surveillance provisions sunset on December 31, 2005. The SAFE Act would sunset four additional surveillance provisions: Sections 213, 216, 219, and 505.

We have already discussed Sections 213 (sneak and peek warrants) and 505 (national security letters). Section 216 allows the use of surveillance devices known as pen registers and trap and trace devices to gather transactional information about electronic communications (e.g., e-mail) if the government certifies the information likely to be gathered is "relevant" to an ongoing criminal investigation. The information the government gathers is "not to include the contents" of communications, but content is not defined. Section 219 permits a federal judge in any district in the country in which "activities related to terrorism may have occurred" to issue a nationwide search warrant in a terrorism investigation. The target of such a search warrant has no ability to challenge the warrant in their home district. The SAFE Act would simply give Congress an opportunity to assess the effectiveness of these four provisions before deciding whether or not to reauthorize them.

The Justice Department argues that Congress should not expand the sunset to these authorities because they will all be needed by the FBI for "the foreseeable future." Even if this is true, it is no reason not to give Congress the chance to review the usefulness of these powers. If they are needed for the fight on terrorism, we will surely renew them.

Throughout American history, during times of war, civil liberties have been restricted in the name of security. We therefore have the responsibility to proceed cautiously. During the Civil War, President Lincoln suspended habeas corpus, and during World War II, President Roosevelt ordered the detention of Japanese Americans in internment camps. We must be vigilant in our defense of our freedoms. But we also must ensure that law enforcement has sufficient authority to combat the grave threat of terrorism. We must strike a careful balance between the law enforcement power needed to combat terrorism and the legal protections required to safeguard American liberties. That is what the SAFE Act would do.

While we are disappointed that the Administration has expressed disagreement with the SAFE Act, we view this as an opportunity for increased public discussion of one of the most important issues of our day. Accord-

ingly, we request that you schedule a hearing on the SAFE Act as soon as possible. Thank you for your time and consideration.

Sincerely,

LARRY E. CRAIG,  
U.S. Senator.  
RICHARD J. DURBIN  
U.S. Senator.

Mr. DURBIN. Mr. President, let me cut through some of the rhetoric and tell you what the SAFE Act does.

The SAFE Act would place reasonable checks on what are known as roving wiretaps. Typically, when the Government seeks a warrant authorizing a wiretap, its application must specify the individual and the phone that will be tapped. A recommendation on roving wiretaps came to us in the PATRIOT Act because of the obvious: There was a time and place in America when people had one telephone at work, one telephone at home, and if the Government sought to tap that telephone to find out what was going on, it was pretty obvious which telephone lines needed to be tapped. Now we live in a different world where people carry around phones in their pockets. People may have several phones.

So the Government asked for additional authority to focus on those who were engaged in telephone conversations on numerous different telephone lines. Roving wiretaps do not require the Government to specify the phone being tapped. They are designed to allow law enforcement to track targets that evade surveillance by frequently changing phones.

Before the PATRIOT Act, they were only permitted for criminal investigations, not intelligence investigations. The PATRIOT Act authorized the FBI to use roving wiretaps for intelligence purposes for the first time. I supported this. I thought it was a reasonable expansion of wiretap authority because it is important that intelligence investigators have that authority.

Unfortunately, the PATRIOT Act did not include the same limits on these powers that exist for criminal investigations. These limits would have protected innocent Americans from unjustified surveillance. It is a basic tenet of law that if you are going to tap a conversation, the Government has to be specific enough so as to protect innocent people. We should not allow the Government at any given time to impose a wiretap on a phone that anybody might use. The Government should be specific, protecting in the process the privacy of innocent people, while clearly targeting those with a wiretap who could be guilty of a crime or guilty of activities that are treasonous.

Under the PATRIOT Act, the FBI is not required to determine whether the target of the wiretap is physically present at the location being wiretapped before beginning the wiretap, as it is for criminal wiretaps. The ascertainment requirement, as it is known, ensures innocent Americans are not wiretapped unnecessarily, especially when the FBI wiretaps a public telephone.

The FBI is now permitted to obtain a John Doe roving wiretap for intelligence purposes, a sweeping authority never before authorized by Congress. A John Doe roving wiretap does not specify the person or the phone to be wiretapped. In other words, the FBI can obtain a wiretap without telling a court whom they want to wiretap and where they want to wiretap. This is a virtually limitless power.

The SAFE Act, which we have introduced, would continue to authorize roving wiretaps for intelligence purposes but would impose reasonable limits, the same limits that exist for criminal investigations. Law enforcement would be required to determine whether the target of the wiretap is physically present before beginning the wiretap. The FBI would not be able to obtain "John Doe" roving wiretaps. These protections would ensure that the Government does not wiretap innocent Americans.

Secondly, the SAFE Act would impose reasonable limits on sneak-and-peek searches. Sneak-and-peek searches are conducted secretly by the FBI with no notice to the target until some time after the search.

You have all seen the scene on television—maybe you are familiar with it from your community—where there is a knock on the door and a law enforcement official says: I have a warrant to search your home. Well, that is the usual course of events in criminal investigations. It is much different when it comes to sneak-and-peek searches.

The Justice Department argues that warrants for sneak-and-peek searches "had been available for decades before the PATRIOT Act was passed," but such warrants were never authorized by Congress before the passage of the PATRIOT Act. Some courts permitted sneak-and-peek warrants in limited circumstances, although the Supreme Court has never ruled on their constitutionality.

In authorizing sneak-and-peek warrants, section 213 of the PATRIOT Act did not include checks and limitations on the power of the Government so as to protect innocent Americans. Courts have required the FBI to notify the target of the search within 7 days of the search. Section 213 of the PATRIOT Act, however, requires notice of the search only within "a reasonable period," which is not defined. According to the Justice Department, this has resulted in delays of notice of up to 90 days, and of "unspecified duration."

Section 213 authorizes sneak-and-peek searches where a court finds that providing immediate notice of the search would have an adverse result. "Adverse result" is defined broadly. It includes circumstances "seriously jeopardizing an investigation or unduly delaying a trial." This catch-all provision could arguably apply in almost every case.

Unlike many other PATRIOT Act provisions that give new surveillance powers to the FBI, the sneak-and-peek

authority does not sunset. It is permanent law.

According to a recent poll, 71 percent of Americans disapprove of the current sneak-and-peek provision in the PATRIOT Act. Last year, an overwhelming, bipartisan majority in the House of Representatives voted to repeal this section of the PATRIOT Act. The SAFE Act that we introduce would not go nearly that far. It would place reasonable limits on the FBI's ability to conduct sneak-and-peek searches, while still permitting broad use of this authority.

The SAFE Act would still authorize sneak-and-peek searches in a broad set of specific circumstances. However, it would eliminate the catch-all provision that allows sneak-and-peek searches in any circumstances.

The SAFE Act would require notification of a covert search within 7 days but would authorize a court to allow unlimited additional 7-day delays upon application by the Government. According to the Justice Department, "the most common period of delay" under section 213 is 7 days, so this limit that we establish is not unreasonable.

The SAFE Act would also sunset the sneak-and-peek authority, giving Congress an opportunity to take a hard look at a provision in the law that is so widely unpopular in the United States.

The third area has received a lot of attention, and it relates to the compelled production of library and personal records.

The SAFE Act would place reasonable limits on the FBI's authority to compel production of library and personal records. Before the PATRIOT Act, the FBI was authorized to seek a court order for the production of records from four types of businesses—common carriers, such as airlines and trains and buses; public accommodations, such as hotels and restaurants; storage facilities; and car rental companies. In order to obtain records, the FBI was required to convince a court it had reason to believe that the person to whom the records related was a terrorist or a spy.

Under section 215 of the PATRIOT Act, the FBI can compel production of "any tangible things," not just records, from any entity, not just the four types of businesses previously covered. The FBI, under the PATRIOT Act, is only required to certify that the records are "sought for" a terrorism or intelligence investigation, a standard even lower than relevance. The FBI is not required to show that the documents relate to a suspected terrorist or spy.

Now, those who defend section 215 frequently claim the FBI must obtain court approval to compel production of records, but if you read section 215, you will see that the type of court approval which is authorized is a rubber stamp.

The PATRIOT Act gives the Government too much power to seize the personal records of innocent Americans who are not suspected of involvement

in any terrorism or espionage. This could lead to broad fishing expeditions which waste scarce Government resources, are unlikely to produce useful information, and can infringe upon privacy rights.

The SAFE Act would retain the PATRIOT Act's expansion of the records provision to cover "any tangible things," as I said earlier, and any entity. But it would reinstate the pre-PATRIOT Act standard for obtaining records, which requires individualized suspicion and increased judicial oversight. The FBI would be required to convince a court that it has reason to believe that the person to whom the records relate is a terrorist or a spy. This would protect innocent Americans and prevent fishing expeditions by the Government.

It is very important to note that in the more than 2 years since the passage of the PATRIOT Act, section 215—compelling records, as I have described—has never been used. If the authority has never been used during this time of great national concern and peril, it is difficult to understand how imposing some reasonable checks could harm the war on terrorism.

The fourth and last section of the SAFE Act relates to national security letters. The SAFE Act would impose reasonable limits on the issuance of these letters. An NSL, as they are known, is a document signed by an FBI agent requiring disclosure of financial, credit, or other personal information. It can be issued to a wire or electronic communication provider. The recipient of an NSL is subject to a gag order and cannot disclose the request to the individual whose records are being sought. An NSL does not require judicial or grand jury approval.

Before the PATRIOT Act, the FBI could issue such a letter to obtain records by certifying it had reason to believe that the person to whom the records relate is a terrorist or spy. The approval of FBI headquarters was required.

Section 505 of the PATRIOT Act allows the FBI to issue a national security letter by certifying that the records are "sought for" a terrorism or intelligence investigation, regardless of whether the target is a suspect. FBI headquarters approval is no longer required.

Unlike many other surveillance-related PATRIOT Act provisions, this expanded NSL authority does not sunset under the law of the PATRIOT Act.

The SAFE Act would retain the PATRIOT Act's lower standard for the issuance of NSLs and its delegation of issuing authority to FBI field offices.

It would simply clarify that a library is not a "wire or communication service provider," which, from the plain meaning of the words, it is not. The FBI could still obtain information regarding e-mails and other communications originating from library computers by issuing a national security letter to the library's wire or communication service provider.

The SAFE Act would simply ensure that the FBI issues the national security letter to the service provider, which is the appropriate recipient, rather than a community library, which is not equipped to respond to such a request.

We would also sunset this NSL authority, giving Congress another opportunity to take a look at it.

We have the responsibility to give the Government the power it needs to keep us safe, but at the same time we have a responsibility to the Constitution, which we have all sworn to uphold and defend, to zealously protect the personal freedoms and liberties of American citizens.

Geoffrey Stone, a professor and former dean at the University of Chicago Law School, made this observation:

In time of war . . . we respond too harshly in our restriction of civil liberties, and then, later, regret our behavior. It is, of course, much easier to look back on past crises and find our predecessors wanting, than it is to make wise judgments when we ourselves are in the eye of the storm. But that challenge now falls to us.

We must meet this challenge head on. As we reflect on the course of history, there has hardly been a time in the history of the Nation when we faced great threats to our safety and security when the Government did not overreach.

The greatest President, I think, who ever served us, Abraham Lincoln, from my State of Illinois, during the course of the Civil War, suspended the writ of habeas corpus, basically gathering into prison suspects without any charges. It was clearly in violation of the language of the Constitution. It was a power he assumed as Commander In Chief, and many have questioned it in the years that have followed.

During World War I, when there was real concern about outside threats to our country, we established the Alien and Sedition Acts, laws passed by Congress and signed by the President which, on reflection, went too far.

In World War II, we had the Japanese internment camps. We took perfectly innocent Japanese Americans, simply because of their ancestry, and put them in these settlement camps for lengthy periods of time, even while the children would leave the camps to serve in the Armed Forces.

During the cold war, a war that went on for decades and cost this Nation billions of dollars and created great anxiety, the McCarthy hearings and the questions of patriotism that were raised indicate that again we had gone entirely too far. The list continues. Sadly, it continues when we reflect on what we have done since September 11.

There is always a tension in our society between security and freedom. Those who want more security often argue that the Government needs more power and more authority, and individuals must give up those freedoms. Many of us believe that in surrendering

our freedoms, we are surrendering our heritage to the terrorists. The freedoms which were so carefully guarded and so zealously pursued by so many generations, freedoms which we have won with the lives of Americans in conflict time and time again, should be carefully guarded as well.

I hope we will understand that the burden of proof is not on individual Americans to come forward and prove to the Government they have a right to their freedoms and liberties. When the Government seeks to take away the freedom and liberty of an American citizen, it is the burden of the Government to prove that is necessary.

With the SAFE Act, Senator CRAIG and I have taken four very specific and discrete elements of the PATRIOT Act and we have said that by changing these, we will still keep America safe, but we will prevent intrusive Government activity into the privacy of individuals.

We can search the Constitution from the beginning to the end, through every amendment, and never see the word "privacy" in it, but courts have said repeatedly that that is what government should be all about—protecting our privacy, only invading it in times when it is absolutely necessary to protect our safety in our community or our security as a Nation. The PATRIOT Act ended up being an allocation of power to the Government that went far beyond what was necessary for the security of our Nation and in fact invaded our rights and liberties.

We need to meet this challenge head on. It is possible to combat terrorism and to protect our freedoms. We can be safe and free. The SAFE Act demonstrates that. I urge my colleagues to join Senator CRAIG and myself as cosponsors.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF JUSTICE FLORENCE K. MURRAY

Mr. REED. Mr. President, on Sunday, March 28, 2004, Rhode Island, the judicial community and the entire Nation lost a great pioneer who was a superb jurist and a powerful inspiration. Retired Supreme Court Associate Justice Florence Kerins Murray passed away after decades of breaking new ground for women in the United States. She was 87 years old.

Justice Murray, the first woman appointed to the Rhode Island Superior and Supreme Courts, was a lifelong resident of Newport.

The daughter of John and Florence Kerins, Murray attended Rogers High School in Newport and went on to attend Syracuse University, where she would later serve on the Board of

Trustees and was the only woman in the 1942 graduating class at Boston University Law School where she would become a member of the board of visitors.

Throughout her life Justice Murray sought ways to serve the community. She began her professional career as a teacher in a one-room schoolhouse on Prudence Island, in Narragansett Bay. Later, she joined the Women's Army Corps and was promoted to lieutenant colonel before leaving the service in 1947. Again, Murray broke ground when she was the youngest woman to achieve that rank at the time.

Upon leaving the Army, she opened a one-woman law firm above a grocery store on Thames Street. She was the only female lawyer in Newport when she opened her firm. She later practiced law with her now-deceased husband, Paul F. Murray, who went on to serve as U.S. Attorney for Rhode Island from 1977 to 1981. Paul and Florence had a son Paul M. Murray.

Continuing her traditions of giving back to her community and public service, Murray served as both a State Senator from Newport and member of the city's School Committee.

Murray was the only woman in the Rhode Island Senate during her years in the State House from 1948–1956.

While there, she sponsored legislation to abolish wage differences based on gender and for equal pay for teachers throughout the State. She also introduced a bill making it easier for a parent to get child support if a former spouse leaves the State, and another that led to the creation of State facilities for the care and treatment of alcoholics.

In 1956, Murray was sworn in as the State's first female superior court judge. She became the first female chief judge of the superior court in 1978, and when she was elected by the General Assembly to the State Supreme Court in November 1979, she became the first woman on that bench. She authored more than 500 opinions during her time on the Supreme Court before retiring in 1996.

Supreme Court Justice Maureen McKenna Goldberg, who was appointed to Murray's seat on the high court upon her retirement, praised her "for having broken down so many barriers that were previously closed to women. I believe her greatest accomplishment is that, before she boldly marched into uncharted territory, she paused, turned around and beckoned the rest of us to follow."

During her four decades on the bench, Murray displayed an incredible work ethic and modest demeanor. In a 1997 interview with the Providence Journal she spoke about how she approached her job, "I haven't got any special attributes. I just do a job as well as I can do it, and I seek to keep myself well-informed about whatever my field of work is."

When she was not at work, Murray found dozens of other ways to con-

tribute. She was a member of the Rhode Island Heritage Hall of Fame, a recipient of a Citizen of the Year Award from the Rhode Island Trial Lawyers Association, and a Judge of the Year Award from the National Association of Women Judges.

The American Bar Association honored her in 2002 for pioneering work, in the late 1950s, that led to the establishment of Rhode Island's Family Court.

She served on numerous judicial and civic boards over the years, among them, Salve Regina College and Bryant College and she founded the Newport Girls Club.

In her retirement, Murray was appointed by President Clinton to serve on the board of directors of the State Justice Institute and remained active in National Judicial College affairs.

Murray was honored in 1990 when the Newport Court House was renamed the Florence K. Murray Judicial Complex. It was an excellent and fitting way to honor a great woman.

And when we honor Justice Murray, we must remember to honor the greatness of her achievements. Not because she was a woman, but because her accomplishments were spectacular for any person, man or woman.

My deepest condolences go out to her friends and family, especially her son, Paul. Justice Murray was an incredible woman who was bound by no barriers. She was a patriot and a pioneer, a public servant and a mother. In her quest to improve herself, she improved the world around her. We will miss her dearly.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, are we on particular legislation at this moment?

The PRESIDING OFFICER. We are on a motion to recommit S. 1637, the JOBS bill.

Mr. CRAIG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFE ACT

Mr. CRAIG. Mr. President, I have come to the floor, as my colleague from Illinois did a few moments ago, to talk about the USA PATRIOT Act and where we are with this issue that the American people have recognized as important for a variety of reasons.

We all know that following the attack on American soil on September 11, 2001, we produced the USA PATRIOT Act to allow the law enforcement and intelligence communities of this country to move forward and do a variety of things. For the first time, we stepped

into some arenas of law that many citizens of our country looked at at the time and said, be careful if you go there for you may well be intruding upon what are fundamental and constitutional rights of privacy with the American people.

I voted for the PATRIOT Act at that time, and I did so speaking to the fact that I thought it was necessary that we move expeditiously to allow our law enforcement community to operate for the purpose of national security. I said at that time that this was not a perfect law. In fact, 253 communities and 37 States later, representing approximately 43.5 million people, have passed resolutions opposing or expressing concern about the PATRIOT Act. Groups as politically diverse as the ACLU and the American Conservative Union endorse changes in the law.

In his State of the Union Address, the President called for reauthorization of the PATRIOT Act. Given the bipartisan opposition to the law at this moment as it currently stands, there are many of us who believe it is necessary to make some adjustments in the law as we move toward reauthorization. Congress, in fact, made oversight of the PATRIOT Act implicit by sunseting over a dozen sections of the bill at the time of its passage.

The Senator from Illinois and I drafted S. 1709 with this oversight in mind. It was drafted to clarify and amend in a minor way the PATRIOT Act's most troubling provisions so that the whole or even piecemeal repeal of the law would be unnecessary. It was drafted to safeguard the liberties of law-abiding citizens while preserving the law enforcement authorities essential to a successful war on terror.

Late last month, however, the Department of Justice issued a letter objecting to the very legislation, objecting to it before there had even been a hearing on it. Specifically, they objected to the SAFE Act on grounds that it would "eliminate" some PATRIOT tools and even "make it more difficult" to fight terrorism than before enactment of the PATRIOT Act.

Let me be emphatic: the SAFE Act in no way repeals any provision of the PATRIOT Act, nor impedes law enforcement's ability to investigate terrorism by amending pre-PATRIOT Act law. My name would not be on a bill that accomplished those things.

What the SAFE Act does do is clarify and slightly modify several provisions, particularly those related to the use of surveillance and the issuance of search warrants, to restore the judicial oversight requisite to healthy law enforcement.

Specifically, the SAFE Act would impose two reasonable safeguards on the use of roving wiretaps for intelligence purposes.

Before the PATRIOT Act, roving wiretaps were only permitted for criminal, not intelligence, investigations. The PATRIOT Act authorized the FBI to use roving wiretaps for intelligence purposes for the first time.

The Intelligence Authorization Act of 2002 further permitted the FBI to obtain "John Doe" wiretaps in an intelligence investigation without specifying either the target or the location of the wiretap.

Law enforcement is only required to provide a physical description of the target, such as 5'7", Middle Eastern descent or something else equally as vague, so as to, in my opinion, be meaningless. In order to protect the private conversations of people wholly unrelated to the investigation, the SAFE Act simply requires that law enforcement specify either the target or the location of the wiretap and ascertain the presence of the target before initiating the surveillance.

Far from eliminating the roving wiretap, S. 1709 only makes the requirements for a roving wiretap for intelligence surveillance conform to the requirements for roving wiretaps under the criminal code. Does this tie law enforcement's hands in the way the Justice Department so described it? Hardly so.

In the case of sneak-and-peek warrants, before the PATRIOT Act, there was no statutory authority for delayed notice warrants for physical evidence, although covert searches of oral and wire communications for intelligence purposes were allowed. The Supreme Court never ruled on the constitutionality of sneak-and-peek warrants for physical evidence, and the Federal circuit courts were divided on the issue.

Despite this, the PATRIOT Act granted Federal law enforcement broad authority to obtain sneak-and-peek warrants for physical evidence where a court finds "reasonable cause" that providing immediate notice of the warrant would have an adverse result, including seriously jeopardizing an investigation or unduly delaying a trial,"—a very broad standard.

The SAFE Act, our amendment to the PATRIOT Act, reasonably limits when a court may issue a sneak-and-peek warrant for physical evidence to situations where notice of the warrant would:

- (1) endanger the life or physical safety of an individual;
  - (2) result in flight from prosecution;
- or,
- (3) result in the destruction of or tampering with evidence sought under the warrant.

Though the Department of Justice argues that scenarios such as a suspect's associates fleeing, going into hiding, or accelerating their plots would be excluded from the sneak-and-peek authority, these clearly fall within the reasonable limits of the SAFE Act.

The Department of Justice also misrepresents the authority of the sneak-and-peek provision when it says that the SAFE Act would "restrict the ability of courts to extend the period of delay" for a delayed-notice warrant. Although S. 1709 requires notice of a

covert search within 7 days rather than a reasonable period, it authorizes unlimited 7-day delays if the court finds that notice of a warrant would continue to endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant.

Far from restricting the courts, the SAFE Act restores what I believe is the proper level of judicial oversight in the process.

I believe the Department of Justice also misrepresented the modifications the SAFE Act would make to section 215 of the PATRIOT Act, which permits law enforcement to obtain a vast array of business records with minimal judicial oversight.

Before the PATRIOT Act, FISA search orders were available for only certain travel-related "business" records—not library or personal records—where the FBI had "specific and articulable facts" connecting the records to a foreign agent.

These orders are available for any and all records, including library records, by simply certifying that the records are sought for an international terrorism or intelligence investigation, a standard even lower than relevance. The court does not even have the authority to reject this certification under current law.

Though the Department of Justice describes the SAFE Act standard as a "much more rigorous" standard, FISA search orders would still be available for any and all records, but only when the FBI has "specific and articulable facts" connecting the records to a foreign agent.

Far from "raising the standard" to a new level, S. 1709 reinstates the proper pre-PATRIOT standard for obtaining a FISA order for business records, and even maintains the PATRIOT Act's expanded definition of business records.

Likewise, the Department of Justice argues that section 5 of the SAFE Act would impose an "entirely new limitation" on the use of National Security Letters.

Before the PATRIOT Act, the FBI could issue a National Security Letter to obtain personal records by certifying that it had reason to believe that the person to whom the records relate is a foreign power or agent of a foreign power.

Current law allows the FBI to obtain sensitive personal records, without judicial approval, simply by certifying that they are sought for a terrorism or intelligence investigation, regardless of whether the target is a suspect.

While national security letters are only to be used to obtain name, address, length of service, and local and long distance toll billing records, available information indicated that the Justice Department is using them to obtain other kinds of records, including library records. Contrary to the assertions of the Department of Justice, the SAFE Act maintains the greatly expanded definition of "financial



records," and even makes such records available without individual suspicion. S. 1709 only reasonably exempts libraries and Internet terminals from National Security Letter orders.

While I am disappointed that the Administration has expressed disagreement with the SAFE Act, I view this as an opportunity to increase the public discussion on one of the most important issues of the day.

I know Attorney General John Ashcroft. John and I are personal friends. I am not worried about how John Ashcroft will enforce the law. But administrations change. The law lasts, and it is imperative that it embodies a smooth balance of liberty and justice.

I am not seeking to repeal any provision of the PATRIOT Act but rather to salvage it by making necessary, albeit minor, amendments to it in order to safeguard individual liberties while preserving the very important law enforcement authorities it grants. Privacy is a hallmark of our constitutional system—the right of the individual within that system—and what we attempt to do by the SAFE Act, S. 1709, is to assure that when we reauthorize the PATRIOT Act, we guarantee that those rights are preserved.

I yield the floor.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues Senator CRAIG and Senator DURBIN in calling for hearings on this important legislation to amend the PATRIOT Act.

After the vicious attacks of September 11, there was a broad consensus in Congress about what needed to be done. We all recognized the need to give law enforcement and intelligence officials stronger powers to investigate and prevent terrorism, to provide officials with effective ways to stop terrorists from entering our country, and to achieve greater coordination between the law enforcement and the intelligence communities. At the same time, we understood the critical importance of protecting the basic rights and liberties of our citizens and others residing legally in the United States and maintaining America's long tradition of welcoming immigrants from around the world.

The challenge we faced, then as now, was how to strike the right balance between law enforcement and civil liberties.

Many of us were concerned that some of the changes initially requested by the administration did not strike the right balance. We made significant improvements to the PATRIOT Act during Senate negotiations, but we also recognized the need to follow the implementation of these new powers carefully. That is why the 4-year sunset provision is such an important part of the legislation. By passing the sunset provision, Congress committed itself to revisiting the PATRIOT Act after 4 years, in a non-election year, and making a new and better-informed assessment of which powers should be retained, which should be revised, and which should be eliminated.

Since the enactment of this law, there has been increasing bipartisan concern about its effect on civil liberties in this country. Two hundred fifty-seven communities in 38 States representing over 40 million citizens, have passed resolutions opposing or expressing concern about the PATRIOT Act.

Clearly, we must do more to protect the basic rights and civil liberties of law-abiding Americans. The bipartisan Security and Freedom Ensured Act is narrowly written to correct some of the PATRIOT Act's most controversial provisions: it would protect innocent people from surveillance, by requiring "roving wiretap" warrants to identify either the target of the wiretap or the place to be wiretapped; it would impose reasonable limits on the Government's ability to carry out "sneak and peek" search warrants, by requiring notice of such a covert search to be given within 7 days after the search, unless the notice would endanger a person's life or result in the destruction of evidence or a suspect's flight from prosecution; and it would protect library and bookstore records from "fishing expedition" searches of the records, while still allowing the F.B.I. to follow up on legitimate leads.

None of these changes would amend pre-PATRIOT Act law in any way. None would impede the ability of law enforcement and intelligence officials to investigate and prevent terrorism. To the contrary, the SAFE Act would retain the expanded powers created by the PATRIOT Act, while restoring the constitutional safeguards that are indispensable to our democracy. These safeguards are a continuing source of our country's strength, not luxuries or inconveniences to be jettisoned in times of crisis.

Unfortunately, the administration does not agree. Our proposal has not yet received a hearing in the Judiciary Committee, yet the administration has already threatened to veto it. Rather than comply with the sunset provision specifically written into the PATRIOT Act itself, President Bush has sought to make an election-year issue out of it by calling on Congress to reauthorize the Act now. Rather than seek to promote understanding, the Attorney General and other officials have chosen to defend the PATRIOT Act by speaking only before audiences sympathetic to their views. In Boston and other cities, citizens with questions and concerns about the PATRIOT Act have been shut out.

I urge my colleagues not to accept this cynical election-year strategy. In the House, Chairman SENSENBRENNER has rejected calls for reauthorizing the PATRIOT Act this year, and we should do the same in the Senate. We should conduct additional hearings in the Judiciary Committee on the many important civil liberties issues that have been raised since September 11, including the administration's unprecedented and troubling "enemy combatant" pol-

icy, under which U.S. citizens are incarcerated without counsel or judicial review. Attorney General Ashcroft should appear to defend these and other policies. And we should hold hearings specifically on the bipartisan SAFE Act proposed by Senator CRAIG and Senator DURBIN.

We should also hold hearings on the need for legislation to protect the civil liberties of immigrants. The detention provisions in the PATRIOT Act have led to the unfair detention of innocent people. Massive registration programs have fingerprinted, photographed and interrogated over 80,000 innocent Arab and Muslim students, visitors, and workers. "Voluntary interview" programs have made criminal suspects out of Muslims legally residing in the U.S. In our pursuit of terrorist suspects, our Government cannot be allowed to ride roughshod over the basic rights and liberties of immigrants.

In a speech in 1987, Justice William Brennan observed that the United States had repeatedly failed to preserve civil liberties during times of national crisis—from the Alien and Sedition Acts of 1798, to the internment of Japanese Americans during World War II—only to later realize "remorsefully . . . that the abrogation of civil liberties was unnecessary." As we continue to face the crisis of terrorism today, we should do all we can to avoid the errors of the past. The administration and Congress should work together in a spirit of bipartisanship and shared purpose, to bring terrorists to justice, to enhance our security, and to preserve and protect our Constitution.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Pennsylvania is recognized.

#### PREGNANCY AND TRAUMA CARE ACCESS PROTECTION ACT

Mr. SPECTER. Madam President, I support legislation which would address certain serious problems faced today by doctors, hospitals, and other medical professionals who provide obstetrical and gynecological services and emergency or trauma care services, and at the same time provide balance to fairly treat people who are injured in the course of such medical treatment.

While most of the attention has been directed to OB/GYN and ER malpractice verdicts, the issues are much broader involving medical errors, insurance company investments, and administrative practices.

I support caps on noneconomic damages so long as they do not apply to situations such as the paperwork mixup leading to the double mastectomy of a woman or the death of a 17-year-old woman in a North Carolina transplant case where there was a faulty blood type match, or comparable cases in OB/GYN or the ER trauma services area.

An appropriate standard for cases not covered could be analogous provisions in Pennsylvania law which limit actions against governmental entities in

the limited tort context which exclude death, serious impairment of bodily functions, and permanent disfigurement or dismemberment.

Beyond the issue of caps, I believe there could be savings on the cost of OB/GYN or ER trauma malpractice insurance by eliminating frivolous cases by requiring plaintiffs to file with the court a certification by a doctor in the field that it is an appropriate case to bring to court. This proposal, which is now part of Pennsylvania State procedure, could be expanded federally, thus reducing claims and saving costs.

While most malpractice cases are won by defendants, the high cost of litigation drives up malpractice premiums. The proposed certification would reduce plaintiffs' joinder of peripheral defendants and cut defense costs.

Further savings could be accomplished through patient safety initiatives identified in the report of the Institute of Medicine.

On November 29, 1999, the Institute of Medicine issued a report entitled "To Err Is Human: Building a Safer Health System." The IOM report estimated that anywhere between 44,000 and 98,000 hospitalized Americans die each year due to avoidable medical mistakes. However, only a fraction of these deaths and injuries are due to negligence. Most errors are caused by system failures.

The Institute of Medicine issued a comprehensive set of recommendations, including the establishment of a nationwide mandatory reporting system, incorporation of patient safety standards in regulatory and accreditation programs, and the development of a nonpunitive culture of safety and health care organizations. The report called for a 50-percent reduction in medical errors over 5 years.

The Appropriations Subcommittee on Labor, Health and Human Services, and Education, which I chair, held three hearings to discuss the Institute of Medicine's findings and explore ways to implement the recommendations outlined in the IOM report. For fiscal year 2001, the subcommittee bill contained \$50 million for a patient safety initiative and directed the Agency for Health Care Research and Quality to develop guidelines on the collection of uniform error data; establish a competitive demonstration program to test best practices, and to research ways to improve provider training. In fiscal year 2002 and 2003, \$55 million was included to continue these initiatives. In this year, fiscal year 2004, we increased the amount provided for patient safety to \$79.5 million.

We have received an interim report informing us the creation of a positive safety culture at hospital and health care facilities in which employees believe they would not be punished for reporting errors has caused reporting rates of such errors to increase. The emerging positive culture also includes the involvement of key leaders, both

administrative and clinical, in patient safety procedures. This has helped professionals move ahead to improve patient safety and the establishment of patient safety committees, development and adoption of safe protocols and procedures and enhanced technology as a tool where carefully implemented to reduce errors and approve safety, for example, through the use of computerized physician order entry.

There is evidence that increased OB/GYN and ER trauma insurance premiums have been caused at least in part by insurance company losses, the decline in the stock market of the past several years, and the general rate-setting practices of the industry. As a matter of insurance company calculations, premiums are collected and invested to build up an insurance reserve where there is considerable timelag between the payment of the premiums and litigation which results in a verdict of settlement. When the stock market has gone down, for example, that has resulted in insufficient funding to pay claims and the attendant increase in insurance premiums. A similar result occurred in Texas on homeowners insurance where cost and availability of insurance premiums became an issue because companies lost money in the market and could not cover the insured losses on their accounts.

In structuring legislation to put a cap on jury verdicts, due regard should be given to the history and development of trial by jury under the common law where reliance is placed on average men and women which comprise a jury to reach a verdict resulting from the values and views of the community.

Jury trials in modern tort cases descend from the common law jury trial in trespass, drawn from and intended to be representative of the average members of the community in which the alleged trespass occurred. This coincides with the incorporation of negligence standards of liability into trespass actions.

This representative jury right in civil actions was protected by consensus among the State drafters of the United States Constitution's Bill of Rights. The explicit trial-by-jury safeguards in the seventh amendment to the Constitution were an adaptation of these common-law concepts harmonized with the sixth amendment clause that local juries be used in criminal trials. Thus, from its inception in common law through inclusion in the Bill of Rights today, the jury in tort negligence cases is meant to be representative of the judgment of average members of the community, not of elected representatives.

The right to have a jury trial to decide one's damages has been greatly circumscribed in recent decisions by the U.S. Supreme Court. An example is the analysis the Court has recently applied to limit punitive damage awards. In recent cases, the Court has shifted its seventh amendment focus away

from two centuries of precedent in deciding Federal appellate review of punitive damage awards will be decided on a *de novo* basis and a jury's determination of punitive damages is not a finding of fact for purposes of the reexamination clause of the seventh amendment which provides "no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

Thus, in the year 2003, the Court reasoned that any ratio of punitive damages to compensatory damages greater than 9 to 1 would likely be considered unreasonable and disproportionate, although that is subject to certain exceptions and constitutes an unconstitutional deprivation of property in nonpersonal injury claims. Plaintiffs will inevitably face a vastly increased burden to justify a greater ratio and appellate courts have far greater latitude to disallow or reduce such awards, although increased awards can be permitted under the Supreme Court decision. These decisions may have already, in effect, placed caps on some jury verdicts in malpractice cases which may involve punitive damages.

Consideration of the many complex factors on the Senate floor on the pending legislation will obviously be very difficult in the absence of a markup in committee or the submission of a committee report and a committee bill. The pending bill is the starting point for analysis, discussion, debate, and amendment. I am prepared to proceed with the caveat there is much work to be done before the Senate would be ready, in my opinion, for the consideration of final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I wish to speak as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SAFE ACT

Mr. SUNUNU. Madam President, I rise to speak on the issue of the PATRIOT Act and to follow up on the remarks earlier this afternoon by Senator CRAIG of Idaho. I have joined Senator CRAIG in cosponsoring the SAFE Act, a piece of legislation that would make certain modifications to the PATRIOT Act. I will not go into all of the details of the legislation, as Senator CRAIG did. However, I do want to highlight a couple of the main provisions of the legislation to outline our thinking in crafting these provisions and underscore why I think we need to take a step back, look at the PATRIOT Act in its totality and try to make it work better and try to strike a better balance the protection of the civil liberties we all cherish as Americans and the tools we do believe are necessary for law enforcement and intelligence agencies to conduct the war against terror.

It is unfortunate some people have come out with a knee-jerk reaction

calling for the repeal of the PATRIOT Act. Before the PATRIOT Act our laws did not reflect or foresee a day and age with cellular phones, satellite phones, and a high-speed Internet. There are a lot of very important provisions of the PATRIOT Act that do update our law enforcement capabilities in a way that reflects changes in technology. Protecting civil liberties while giving law enforcement the ability to operate as technology and new threats to our security emerge is critical to winning the global war on terror.

We can draw an appropriate line to protect civil liberties in a few specific areas. First, let's look at sneak-and-peek warrants, or a delayed notification search warrant. Senator CRAIG spoke at length about the provision in the SAFE Act that would modify the PATRIOT Act to say instead of requiring notification within a reasonable amount of time, which is clearly an arbitrary definition. Instead, we ought to have a set time limit that notification of a search warrant executed without notice has to be provided within 7 days of the execution of the warrant.

Now, if there is a threat to safety, or risk of flight, or a risk of damage to the investigation, the SAFE Act allows law enforcement officials to go back to the judge and extend that notification another 7 days. And that can continue indefinitely. This approach—specifying a time limit on the warrant and providing for more judicial review—is much clearer and more respectful of civil liberties. For anyone to suggest adding clarity in the law for notification undermines the capacity of law enforcement to continue to do their job, I think, is a level of rhetoric that does not serve an important debate such as this very well.

Second, we added clarification to the provision in the PATRIOT Act that deals with a roving wiretap. The SAFE Act would require law enforcement to specify either the suspect to be put under surveillance through a roving wiretap—an order that follows that suspect as they use different cell phones, and other means of communication—or specify a particular location to be monitored. Specify the suspect or specify the location. Changing the PATRIOT Act to require such specification would add clarity to ensure the PATRIOT Act is not misused and minimizes the likelihood that innocent parties would be unknowingly tapped. And again, such a change would only improve the PATRIOT Act as it would protect those who are not targets of investigation but it still give law enforcement the ability to conduct this kind of a roving wiretap.

Third, another provision of the SAFE Act applies sunset provisions to a number of different sections of the PATRIOT Act that do not sunset over time. When we talk about a sunset provision in the U.S. Congress, we are talking about a specific period during which the legislation is in force, but after that period—it might be a 2-year

or 3-year or 4-year period—the law sunsets, and it needs to be reenacted or reauthorized by Congress.

I think sunsets are healthy. They are good because they force Congress to rethink and reargue a piece of legislation and examine how the legislation has been used and problems that might exist with it. I think we are much more likely to make improvements to legislation if we have to reauthorize it at different periods in the future.

I do not understand why anyone would say a sunset provision weakens legislation. It does not. It simply requires us to renew them at a future date. I do not know why law enforcement would be afraid of a sunset provision. I do not know why the Justice Department would be afraid of a sunset provision. If there is value to the law, it is helping law enforcement do their job, and all the while it is appropriately protecting civil liberties, the law will be reauthorized and improved over time.

I cannot think of any reason the provisions of the SAFE Act that add clarity to the time frame for notification and judicial review of a sneak and peak warrant, that add specification to the person or place targeted for a wiretap, or that sunset provisions to a law—should be opposed on the grounds that they somehow threaten our ability to conduct the war on terrorism. Quite to the contrary, the provisions of the SAFE Act go a long way toward ensuring individual civil liberties are protected, that the ability to misuse or abuse the law is minimized, that law enforcement continues to have what it needs to prosecute the war on terrorism and that Congress has to affirm and reauthorize legislation over time. I only see the SAFE Act as strengthening the PATRIOT Act.

So I join with Senator CRAIG, Senator DURBIN, Senator FEINGOLD, Senator CRAPO, other members of the Senate and the wide range of citizen groups who have all endorsed and supported the SAFE Act. I hope when we begin deliberations and discussions about renewing and extending the PATRIOT Act, these substantive yet modest, thoughtful modifications are a vital part of that debate that is undertaken in this Chamber.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, what is the pending business?

The PRESIDING OFFICER. The motion to recommit the JOBS bill is pending.

Mr. DAYTON. Thank you, Madam President. I will speak to that motion, please.

Madam President, today, we voted actually a second time on that motion to invoke cloture to recommit this pending bill to the Finance Committee—a vote that failed. So, in other words, we essentially voted not to recommit the bill to the committee of origin.

I emphasize that fact because in my State of Minnesota Democrats are being accused of blocking action on this bill. That simply is not true. We are ready and willing to act on this legislation right now, in fact, as we were last week before it was pulled off the floor by the Republican leader.

So people watching might ask themselves, why was it pulled back then? Why have we been faced with these repeated attempts to send the bill back to committee? The reason is because the Republican caucus does not want to have to vote on the pending amendment, which is the Harkin amendment, which would protect the rights to overtime pay for some 8 million Americans—police officers, firefighters, nurses, laborers; hard-working Americans who want to continue to receive overtime pay when they work their extra hours, whether it be for the sake of public safety, whether it is needed to fill shifts on hospital wards in order to keep them open to patients, or whether it is in order to earn extra income to improve their own lives and the lives of their families.

These 8 million Americans are not asking for any special favors, such as are provided in the underlying bill. They are not trying to get special tax breaks or avoid paying taxes on their foreign income, as are the beneficiaries of the underlying bill. They simply want to be able to earn the American dream, by working harder, by working longer hours, paying their taxes but then coming out ahead because of the overtime provisions.

But this administration has said no, the same administration that wants to eliminate taxes on so-called unearned income, dividend income. They settled for cutting the rate in half but wanted to eliminate it initially. In other words, they want to make not working more lucrative and also want to make working harder less lucrative.

Now, what kind of family value is that? You work more and you earn less because the Bush administration cares more about the corporations that want to add to their profits by paying their workers less money. That is why they moved millions of American jobs overseas. That is why they have eliminated millions of American jobs.

Madam President, 8.5 million of our fellow Americans are out of a job today. And now these same corporations, which have, by the way, been enjoying record high-profit increases in each of the last 2 years, want to make even more money by paying less money to the people who are still working. And the administration is going to help them do it.

In fact, the Secretary of Labor unilaterally, by herself, revoked the overtime benefit protections for 8 million Americans. We, their elected representatives, are not even being allowed to vote on that matter to express our approval or disapproval—in this case, my strong disapproval—of that revocation of their overtime benefit protections.

Why not? Why can't we vote on protecting 8 million American workers? Well, the Republican Conference leader said: Where is the discernible gain to our Members from voting on this and other Democratic amendments?

I don't know about the gain to colleagues who don't want to support overtime pay, but I will tell you about the gain or the loss to those 8 million American workers, depending on whether this measure passes or fails.

That is their overtime pay that has been taken away by the unilateral action of the Secretary of Labor. That is their earned income that has been taken away. That is their new home, their college education, family vacation, prescription drugs they need to buy for elderly relatives.

We in the U.S. Senate are being denied even the right to vote because it is politically inconvenient for some of the Republican caucus.

There is also a huge gain or loss for millions of other Americans who are out of work by the fate of another Democratic amendment to extend unemployment benefits to the 1.1 million Americans who have exhausted theirs at the present time. That number includes an estimated 20,000 of my fellow Minnesotans. They are also hard-working men and women who, through no fault of their own, lost their jobs and have been looking for work and unable to find it in the terrible jobs climate of the last couple years.

Two-thirds of those out-of-work adults have children. An estimated 622,000 children are affected in those families that have exhausted their unemployment benefits. When that happens, it is estimated that over two-thirds of those families lose their health coverage, so the children do not have health care coverage any longer. Over half those families, it is estimated, fall below the poverty level as a result of losing their unemployment benefits. It is unbelievably heartless and cruel to deny them this extension. Yet again we are unable to get a vote in the Senate on extending unemployment benefits to those Americans.

Since we are unable to get these votes on our amendments to this JOBS Act, you might ask yourself, what is so precious about this bill, what is so perfect about it that the leader is denying us a chance to change it in any way? You would naturally assume that because it is called the JOBS bill, it is about actually providing jobs to fellow Americans, but that is not the case.

This is about providing \$114 billion in tax breaks to large and mostly profitable American corporations, to very wealthy American investors. Thirty-nine billion of these tax breaks would go to their foreign business operations to allow them to reduce taxes paid in this country on foreign profits, to allow them to postpone the payment on earned income abroad; in other words, to provide them with additional tax breaks for expanding their foreign business operations and providing jobs overseas.

Some of those jobs might in fact be American jobs taken away from people in this country and sent elsewhere or they might be jobs that are going to be created through an expanded business operation that could have been created here in the United States except for the advantages of doing so elsewhere—meaning again that foreign workers get those jobs rather than Americans at a time when we have 8.5 million Americans who are out of work and another million and a half Americans who are so-called marginally attached to the labor force, who have given up looking for work, and another 4.5 million Americans who are working part time not by choice but because it is the only work they can find.

In other words, over 10 percent of our workforce is either unemployed or underemployed right now, and we are providing foreign tax breaks worth \$39 billion, additional foreign tax breaks, in this measure to these companies or to the investors in them.

I will have an amendment I will offer that would address this matter and take these foreign tax breaks out of the bill, because if we are going to provide tax incentives, as other parts of the bill do, let's at least provide those incentives to American companies for producing jobs in the United States. Let's tie every single one of the tax advantages in this legislation to the provision of new jobs, ideally manufacturing jobs but provable new or additional jobs in the United States to Americans now, not as the measure provides for tax breaks that are going to accelerate in the years 2009 to 2012. Those are not going to result in the creation of new jobs in this country now. We are giving tax advantages to companies, some of which can certainly benefit from it, but many have been part of the 20-percent increases in corporate profitability in each of the last 2 years.

I am glad American corporations are profitable. We need them to be profitable in order to create jobs. But the fact is that at least in the manufacturing sector—and up until now in just about any other sector—improved profitability has not resulted in new job creation in the last couple of years. It didn't result in new job creation last month. So if we are going to provide tax reductions for U.S. manufacturing companies or anyone else, let's make darn sure those reductions are going to result in jobs, the creation of new jobs or the adding of jobs where formerly people had been laid off or cut back. Let's translate those tax breaks into what this bill calls itself, a JOBS Act, jobs for Americans.

Finally, I want to address the fact that as part of this gambit today to supposedly recommit the bill to the committee where it already was referred out, one of the ways in which we were supposedly going to be induced to do so was some part of the former Energy bill, we were told, was going to be added to the bill that reappeared out of

the Finance Committee. I appreciate very much the work that has been done by that committee, in particular by Chairman GRASSLEY of Iowa, who has been stalwart in terms of providing additional tax incentives for energy production, particularly the biofuels, ethanol, and biodiesel fuels. He was instrumental also in changing the formula on the highway trust fund that penalized States such as Minnesota for their ethanol consumption. I would like to join with the majority leader and others who would like to advance this Energy legislation forward.

Since the bill was not recommitted to the Finance Committee, I have drafted an amendment I intend to introduce to add some of the energy provisions to the pending bill, ones that would reinstate the renewable fuels standard Senator DASCHLE, the Democratic leader, was instrumental in adding and keeping through the conference committee a year ago, legislation to expand the American consumption of ethanol and biodiesel fuels over the next 10 years, the electric reliability section, which is beneficial to smaller utilities throughout Minnesota and elsewhere in the Nation, and then the package of tax incentives which Chairman GRASSLEY, ranking member BAUCUS, and others voted out of the Senate Finance Committee that provide alternative fuel incentives, the small ethanol producer tax credit, the tradability of these credits by those co-ops and others that otherwise can't take advantage of them, the tax credit for biodiesel that parallels the credit provided for ethanol production.

These are important measures that would do what the bill itself purports to do, which is to add jobs and provide enormous economic benefits to a State such as Minnesota, to farmers in terms of income, to the production plants for ethanol and biodiesel fuels.

Those are real jobs amendments, real jobs provisions, those that are going to provide tax credits for business activities, those that are going to result directly in additional jobs for America and in an alternative fuel for America that can reduce our dependence on foreign oil; that can take some of the \$115 billion a year we send out of the country to foreign countries such as Saudi Arabia and elsewhere to import foreign oil into this country; \$115 billion that, if it were going into the pockets of American farmers and multiplying those dollars throughout communities, would result in an economic revitalization of rural America the likes of which we have not seen in decades and which we couldn't create any other way, not through all the Government programs you want to imagine, just through the free market, through increased profitability for American agriculture, through the creation of cleaner burning fuels that are available right now and could be produced right now in quantities to significantly replace the gasoline that is consumed all over this country.

That is a real jobs amendment, one I will be introducing and hope we can consider as part of the JOBS Act, so we can make that bill live up to its name, one that will actually provide jobs for Americans rather than corporate tax giveaways for those who don't need them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Madam President, I want to comment on the remarks of the Senator from Minnesota this evening before the Senate and indicate many of us who voted against the Harkin amendment were also as concerned about some of the things the Senator of Minnesota talked about, in terms of the benefits that accrued to working men and women in the United States of America.

I made it clear at that time, when I voted against the Harkin amendment, I felt the Department of Labor should be able to move forward with their recommendations on a law that hasn't been changed since 1978, and that if what my colleagues on the other aisle have indicated is true, many of us would join them in having those rules overturned by the Members of the Senate.

I am pleased to say those rules have been finished by the Department of Labor and they are now at OIRA, which is in the Office of Management and Budget, being reviewed by John Graham. I am hopeful they will be back to the Department of Labor within the next 30 days, so we will know specifically what it is those rules are going to recommend in terms of changes in the law. Hopefully, they are not going to reflect what I have heard on the floor of the Senate over the last couple of months about eliminating overtime for 8 million workers.

The other thing I want to point out is there are many of us on this side of the aisle who are very much in favor of extending unemployment benefits, and I joined with many colleagues to try to get cloture on that amendment several weeks ago. I hope in the next couple of weeks we will be able to get that passed on the Senate floor. There are hundreds of workers in my State—and I am sure also in Minnesota—anxiously waiting for those benefits. In my State, we have too many people who are unemployed. Quite frankly, too many people in my State are worried about whether they are going to have a job. So some of the things the Senator talked about, I hope, will be dealt with during the next couple of weeks.

Mr. DAYTON. If the Senator will yield, I thank the Senator for the update on the overtime situation. I look forward to improved provisions from the Secretary of Labor. I thank the Senator also for his involvement and support to extend unemployment benefits. I know people in his State of Ohio, my State of Minnesota, and many States desperately need that. So I thank him.

Mr. VOINOVICH. Madam President, I also share the Senator's enthusiasm about the ethanol guarantee in the Energy bill. There are many other provisions in that bill many of us are concerned about. I think it represents the first real energy policy this country has had. Again, hopefully, we can work it out so that can get done along with the other provisions. He is right; that bill has some real job-creation aspects to it, particularly in the area of ethanol. We have several companies now that are thinking about building ethanol plants in Ohio, and I think one of the things the American public doesn't understand is it is going to provide less reliance on foreign oil and, in addition, it will limit some of the environmental problems we have from gasoline, with some other very good and important aspects to all of our brothers and sisters.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

(The remarks of Mr. VOINOVICH pertaining to the introduction of S. 2292 are printed in today's RECORD under "Introduction of bills and joint resolutions.")

Mr. VOINOVICH. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SECURITY AND FREEDOM ENSURED ACT

Mr. FEINGOLD. Madam President, I join my colleagues Senators CRAIG and DURBIN in urging the administration and Congress to support the SAFE Act. The SAFE Act is a much needed bill that amends a few provisions of the USA PATRIOT Act in a reasonable way to preserve our constitutional rights and protections while still protecting our Nation against terrorism.

More than 2 years after the PATRIOT Act passed so overwhelmingly, without close scrutiny by Congress, I am delighted that there is now growing support for close examination of application of the law and for changes to the law to ensure that, as we fight terrorism, we also protect the civil liberties of Americans.

There is reason for hope. In Congress and in communities across the country, the American people are beginning to realize that the PATRIOT Act went too far.

In Congress, there is bipartisan support for changes to the law. I am pleased to join my Republican colleagues, Senators CRAIG, CRAPO, SUNUNU, and MURKOWSKI, as a cosponsor of the SAFE Act.

Over 275 communities and four States have now passed resolutions expressing opposition to certain provisions of the PATRIOT Act.

Mr. President, the attacks of September 11, 2001, presented a new and

unique challenge to this country. I can think of nothing more important than responding to that terrible challenge and protecting Americans against terrorism. As I said during debate on the PATRIOT Act and continue to say today, I believe most of the Act's provisions were necessary and proper, such as increasing the number of border patrol agents and allowing the FBI access to voicemails as a part of wiretaps.

But we must be sure that, in conducting the fight against terrorism, the country's highest priority, we also respect the civil rights and liberties of all Americans. History shows that America should not let fear, however justified, cause us to sacrifice our liberty or the liberty of others in the name of national security. The Palmer raids, the McCarthy hearings, the internment of Japanese-Americans, these are all events that have been judged poorly through the lens of history. Today, we are again faced with a grave threat but we can and must face it without potentially abusing the power of the Federal Government or trampling fundamental constitutional rights and protections.

I am pleased that Members of Congress and the American people are beginning to realize the values at stake. There is healthy debate across the country in city councils, State legislatures, town hall gatherings, and in Congress, on how best to preserve a free and open society and to protect our Nation against future terrorist attacks.

In contrast, the administration does not seem interested in engaging in a good faith dialogue with the American people and Members of Congress about our legitimate concerns and reasonable proposals.

Instead, the President has prematurely called for lifting the sunset on certain provisions of the PATRIOT Act that are due to expire. Congress has a responsibility to exercise oversight and demand accountability from the agencies using authority granted to them by Congress. Nearly 2 years before some provisions of the PATRIOT Act will sunset, the administration should be engaging in good faith discussions and negotiations on how it is using the powers it has and how best to protect our country from terrorism while also protecting the civil liberties of our citizens.

I am pleased that both Senator HATCH and Representative SENSENBRENNER, the Chairmen of the Senate and House Judiciary Committees, respectively, have disagreed with the President and have stated that close scrutiny of the PATRIOT Act will be undertaken before Congress will consider lifting the sunset provisions. I commend them for taking this position. It is the right thing to do and the proper role of Congress.

In addition to prematurely calling for lifting the sunset provisions, the administration has already threatened to veto the SAFE Act if it is enacted.

That is unfortunate, and very unusual. The administration has issued a veto threat of a bill that was introduced just a few months ago and has not even had a hearing yet. Thousands of bills are introduced each year. The administration could spend a lot of time issuing veto threats for every one it disagrees with. Obviously, it is worried about this one. But veto threats at this early stage do not contribute to a productive dialogue, and they certainly will not deter the growing bipartisan interest in reevaluating the PATRIOT Act.

I would like to take a moment to talk about the SAFE Act and why it is a reasonable proposal.

As my colleagues Senators CRAIG and DURBIN have discussed, the SAFE Act makes important modifications to enhance judicial review of the FBI's roving wiretap and so-called "sneak and peek" search activities.

I would like to comment on another important modification to the PATRIOT Act contained in the SAFE Act, the section 215, or business records, fix.

Prior to the PATRIOT Act, the Government could compel the production of only certain business records in connection with a counter-intelligence or international terrorism investigation, namely, hotel, rental car, airline, and storage facility records. This was a narrow set of records, and so it made sense to change the law. I agree with that change, to allow the FBI access to more categories of business records.

But the PATRIOT Act went too far because it also weakened the ability of the courts to exercise their proper role as a check on the executive branch, and it took away the requirement of individualized suspicion. The PATRIOT Act changed the standards for allowing the FBI access to such records. Prior to the PATRIOT Act, investigators had to state, in their application to the secret FISA court, specific and articulable facts giving reason to believe that the person to whom the records pertained was a suspected terrorist or spy. If a court agreed, it would issue the order.

The PATRIOT Act, however, vastly expanded this power so that investigators no longer have to show "specific and articulable facts." Now, investigators need only state that the records are "sought for" a counter-intelligence or international terrorism investigation. Upon receiving the application for a court order, the judge must—must—issue the order. He or she does not have discretion. The judge cannot review the merits of the request. For example, a judge cannot review facts to determine whether the scope of the request is reasonable. So long as the FBI asserts that the records are "sought for" a foreign intelligence investigation, the judge must issue the order.

The SAFE Act sponsors and I, as well as librarians, privacy advocates, and an increasing number of Americans, believe this provision of the PATRIOT Act goes too far. We recognize that there is enormous potential for abuse if

the FBI is allowed access to personal information, such as medical records, library records, or newspaper or magazine subscription records, all with no meaningful judicial review and without a requirement of some showing that the records pertain to a suspected terrorist or spy.

The SAFE Act would simply re-insert a pre-PATRIOT Act standard so that he role of the judge as a check on the executive branch is real and effective. Like the standard prior to the PATRIOT Act, under the SAFE Act the FBI would need to state specific and articulable facts to support its application. The SAFE Act simply restores the judicial oversight that existed prior to the PATRIOT Act, giving the court the power to ensure that the Federal Government is not engaging in a fishing expedition at the expense of innocent Americans. This is a reasonable response to protect both our security and our privacy.

The administration has not shown how this prudent safeguard would harm the fight against terrorism or impair its ability to get access to information it needs to protect the country.

I might add that according to the administration, as of last September, almost 2 years since enactment of the PATRIOT Act, the administration claims it had not yet used section 215 of the PATRIOT Act. It is unclear whether they have used it since that time, and I have recently sent the Attorney General a letter asking him whether it has been used. But regardless of whether it has been used zero times or a handful of times, it is nevertheless difficult to understand how reinserting an important judicial check would harm the fight against terrorism.

I urge the administration to reconsider its position on the SAFE Act. The American people have thoughtfully expressed their fears and wishes. They want the Federal Government to protect them against terrorism, but they also want the Federal Government to be respectful of the Constitution every step of the way.

With passage of the SAFE Act, we can reassure the American people that we are working to protect their rights and liberties, as well as their safety. I urge my colleagues and the administration to support the SAFE Act.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. FRIST. I thank the Chair.

(The remarks of Mr. FRIST and Mr. HATCH pertaining to the introduction of S. 2290 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I will withhold at the request of the leader.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me thank the distinguished Senator from Florida. This will only take a moment, but I yield the floor to accommodate the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I thank our colleague from Florida. He has been sitting patiently. I already interrupted another Senator, but this will be very brief.

Mr. President, over the next few minutes, I want to outline what the plans will be over tonight and tomorrow, briefly.

UNANIMOUS CONSENT AGREEMENT—H.R. 3108

First, Mr. President, I ask unanimous consent that at 11 a.m., on Thursday, April 8, the Senate proceed to the conference report to accompany H.R. 3108, the pension equity bill. I further ask consent that there then be 4 hours equally divided for debate between the two leaders or their designees. Finally, I ask unanimous consent that following the use or yielding back of time, the Senate proceed to vote on adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, tomorrow we will have morning business. We will say more about that. Then at 11 o'clock, we will proceed to this conference report for up to 4 hours. I am not sure we will use that entire 4 hours, but there will be up to 4 hours equally divided on this very important bill, followed by a vote.

On a separate issue we have been addressing all day—actually the last several weeks—the FSC/ETI or JOBS bill, we are making real progress. As mentioned shortly after the vote earlier this afternoon, we are working on a list of amendments, a finite list of amendments, that would be agreed to by both the Democratic side and the Republican side.

We made real progress. I was very hopeful we would be able to, around this time, come back and say: This is the list; this is exactly how we are going to handle it. But we will continue to work over the next several hours and do want to announce that progress. We will have more to say either later tonight but more probably early first thing in the morning.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I want to confirm what the majority leader has reported. I think we have made real progress. We are not quite there, but I think we will be there. I can say, with great pride and satisfaction, I appreciate very much the cooperation of

virtually every member of our caucus. I thank them for that cooperation and would hope perhaps by sometime tomorrow morning we will be able to reach an agreement.

I ask the majority leader if he anticipates any more rollcall votes tonight, given where we are with regard to the current schedule.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in response, through the Chair, we will have no more rollcall votes tonight. Assuming we will be able to reach an agreement on a finite list on the FSC/ETI bill, I would expect we would not have votes on Friday of this week either.

Again, I thank our colleague from Florida. That will be the last interruption, I promise.

The PRESIDING OFFICER. The Senator from Florida.

#### COST OF PRESCRIPTION DRUG BENEFIT

Mr. GRAHAM of Florida. Mr. President, there is a recurring pattern in this town. An issue comes to our attention. It is red hot. It creates a great deal of controversy. Two months later it is forgotten. My effort tonight is going to be to resurrect one of those issues because I think it is not only extremely important, but it is also urgent that we give it attention.

The issue is the administration's cost estimate of the Medicare Modernization and Improvement Act and the circumstances surrounding the failure to release that cost estimate to the Congress. As I said, this is old news, but let me just refresh some people's memories.

As early as the summer of 2003, the administration's actuaries, the people who work for the administration in the Department of Health and Human Services, projected that the 10-year cost of the Medicare legislation, which among other things provided a prescription drug benefit, would be \$534 billion over a 10-year period. It is also old news that Mr. Rick Foster, Chief Actuary of the Medicare Program, was ordered by the administrator of the Centers for Medicare and Medicaid Services—at that time Mr. Thomas Scully—to withhold critical actuarial data from Congress and that failure to abide by this order might well result in Mr. Foster being fired.

What is yet to be news are the reasons for the months' long delay in disclosing that estimate to the American public and to the Congress. It has now been 10 weeks since we found out the Medicare bill that we had represented to us as costing \$400 billion over 10 years would actually cost \$534 billion, according to the administration's own actuaries—10 weeks. We have had no explanation for the reasons for the delay, despite the following quote by Secretary Thompson, the Secretary of the Department of Health and Human Services, on March 16 of this year. What did the Secretary say?

There seems to be a cloud over this department because of this. We have nothing to

hide. So I want to make darn sure that everything comes out.

Along with other members of the Finance Committee, I have asked the chairman and the ranking member to hold a hearing on the cost estimate and the reasons for its late disclosure. Given his strong track record on Medicare oversight, I am confident these two fine Senators will do so.

I want to be clear about a couple of things:

One, it is not the cost per se that is troubling to me. In a moment of full disclosure, I voted for a prescription drug benefit that cost more than \$400 billion. I voted for a prescription drug benefit that cost more than \$534 billion. But I was voting for a prescription drug benefit that would at least provide a reliable Buick-style benefit to our seniors. What has now happened is we have learned that we passed a Yugo-like prescription drug benefit and are now paying Cadillac prices for it.

The second thing I wish to be clear about, some of my colleagues have suggested that the only estimate that matters is the Congressional Budget Office because Congress is legally required to rely on the CBO numbers. You may recall, as a youth, reading some Charles Dickens books, including possibly *Oliver Twist*. In that book, when confronted with a similar argument, Mr. Bumble said:

If the law supposed that, the law is an ass, an idiot.

Mr. Bumble's perspective on the law aside, it is indeed true that Congress uses CBO numbers as our official scorekeeper, and I am not suggesting that at this point we alter that process. At the same time I don't think anyone would disagree that it is in America's best interest and the best interest of Congress to have as much information as possible before we vote on significant pieces of legislation. That would clearly include the insights of the person most knowledgeable about the likely cost of this program—the actuary of the very department that will have the responsibility for administering the program.

In fact, it seems information was deliberately, purposefully withheld from the Congress. That action of withholding was contrary to past practices. Moreover, it appears to directly violate the spirit of the Balanced Budget Act of 1997 which confirmed the independence of the Chief Actuary and the desire of Congress to have access to his relevant cost projections.

The fact that the official cost has appropriately been determined by CBO is not the point, nor is the point the fact that there was a difference in the cost estimates between the Congressional Budget Office and the Department's actuaries. We know that different analysts will frequently arrive at different conclusions. The point is this: the enormous magnitude of the difference and the efforts apparently taken by this administration to keep that huge difference hidden from public and congressional scrutiny. That is the point.

The point is the Chief Actuary had information that would have been valuable to us, Republicans and Democrats alike, in our deliberations long before we took our vote on the final conferenced version of the Medicare prescription drug legislation. This information was deliberately withheld.

The fact is, if the White House had released to the public and the Congress its own actuary's estimate of the cost of this Yugo prescription drug benefit, the legislation would clearly not have passed.

The Finance Committee has a particular obligation to investigate this deception. As a member of that committee, I understand we have an obligation to seniors who are depending on an affordable, quality prescription drug benefit. We have an obligation to taxpayers who will be paying for that benefit. We have an obligation to our fellow colleagues to whom we declared, we represented that this plan would not cost more than \$400 billion, cross my heart and hope to die.

We have an obligation to get answers to these questions:

What did the President know regarding the much higher cost estimated by his own actuaries and when did he know it? For someone from Tennessee, that might be a familiar question.

If the President did not know that one of his stated priorities was estimated by his actuaries to far exceed the cost ceiling for this Medicare change—\$400 billion over 10 years—who within his administration failed to notify him of this extraordinary cost overrun?

Third, what actions, if any, were taken by the Department of Health and Human Services, the Office of Management and Budget, or the White House itself to prevent the timely and accurate reporting of information to Congress on the cost of this Medicare bill?

Finally, who has the President held accountable for this deception and what sanctions have been imposed?

These are "rational, critical, important to the Congress and the public to know the answers" questions. One of the immediate impacts we are going to have because of this withholding is that the Congress, the Senate, now the House, have recently passed budget resolutions. These budget resolutions cover fiscal year 2005, which begins October 1 of this year, running through fiscal year 2009. In that budget resolution, as passed by the Senate, the baseline cost of the new Medicare prescription drug provisions and other matters that were included in that legislation is \$165 billion over 5 years. The number, as determined by the administration's own Office of the Actuary in the Department of Health and Human Services, is \$231 billion.

Mr. President, what are we going to do when we face the question of funding this prescription drug benefit—what I suspect to be likely closer to its true cost, \$231 billion, as opposed to \$165 billion, CBO's number. Are we



going to have to have a point of order with 60 votes every time we exceed the clearly inadequate number in order to provide the benefit that we are now running millions of dollars worth of television ads telling the seniors of America they are about to get a new benefit, without any changes in the Medicare Program?

The Finance Committee needs to closely examine these different numbers. I suggest a couple of places to start. Approximately 25 percent of the difference between CBO and the actuaries is in one area, and that is what will be the effect of increasing the number of persons who are enrolled in health management organizations. This legislation not only dealt with prescription drugs, but it also substantially increased the funding for HMOs and insurance companies in order to create an atmosphere that would induce new Medicare beneficiaries to change their form of service from fee for service to traditional Medicare and to join an HMO.

In fact, the CBO estimated it would cost an additional \$14 billion to do that. The administration estimates it will cost \$46 billion. You might ask why does it cost more. I thought the purpose of using an HMO for Medicare beneficiaries was it would save money. It was supposed to get people into a more organized health care system; it was supposed to encourage HMOs to provide preventive services so people would not get as sick, and they would have a higher quality of life and less health care costs.

Well, I am shocked, and I am certain most Members of Congress are shocked, to find the administration finds it will cost \$46 billion more to provide health care services to those persons who are induced by the benefits of this legislation to join an HMO than if they stayed where they were. So one question we need to know is, why are we scaring seniors into HMOs, when this is clearly harmful to the financial structure of the Medicare Program?

The second point I hope the Finance Committee will review is the prohibition inserted into this legislation against the administrator of the program and the Secretary of the Department of Health and Human Services, negotiating on behalf of Medicare beneficiaries to get the best possible prices for prescription drugs. We have an almost analogous situation, except the circumstances are reversed. The Secretary of the Veterans' Administration is directed to negotiate for the prescription drugs his largest hospital system in the world provides. Guess what. He has negotiated so well the cost of prescription drugs in a VA hospital is less than half of what it would be if you bought the same drugs at retail at a local drugstore.

Can you believe the Congress of the United States has passed a provision that prohibits the head of Health and Human Services from getting the same good prices for our seniors?

Let me say, as an aside, we have seen some extremely distressing numbers from the trustees of the Medicare Program. In fact, they released a report within the last 30 days which indicated there has been a 7-year shortening in the term—the years in which Medicare will go insolvent. As recently as last year, it was estimated the program would go insolvent in 2026. In 1 year, they have reduced that to 2019. So we have a system that, we are being told by our best experts, in a little more than 15 years is going to be insolvent. It seems to me there ought to be a sense of urgency to get every possible relief we can to this program so we do not deny the promise that has been made to the American people, to the working men and women, when they reach retirement age.

I believe one thing we can do immediately, in addition to reviewing this issue of health maintenance organizations, is to give to the Secretary of HHS and the administrator of the Medicare Program the authority to negotiate for the hospital portion of prescription drugs. We have passed a new prescription drug benefit for outpatients. But since the beginning of Medicare, Medicare has paid for prescription drugs that were dispensed in a hospital setting. We ought to do everything we can, in light of the fact that 100 percent of the trust funds for Medicare goes for part A—the hospital part—to lower the cost of the hospitals. One immediate way we can do it is by assisting the hospitals in the same way VA assists its hospitals, to lower the cost of their prescription drugs.

I am hopeful the Finance Committee will hold a hearing on this important issue before the Memorial Day recess. This would give us an opportunity to fully understand the differences between the two estimates, the implications of those differences, and the process by which we learned at such a late date the administration was going to project such an enormous difference. And most important, as a Congress, we need to understand what happened and how the Congress can correct the consequence of this deception.

#### JOBS ACT

Ms. SNOWE. Mr. President, I rise today to support the Jumpstart Our Business Strength Act, a bill that provides much-needed tax relief to our Nation's manufacturing base in a manner that will not only protect but will create jobs. Without question, passing this bipartisan legislation will provide a major boost to the manufacturing sector of our economy.

Indeed, this legislation is necessary because our country's manufacturers are in desperate need of help. Not only has America been hard hit by slow worldwide growth, but also has sustained significant job losses during the last few years.

Although the economic statistics for March are a positive improvement, there remains cause for concern when

one considers the profound erosion of U.S. manufacturing jobs in recent years. The damage this sector has sustained is nothing short of stunning. From July 2000 through July 2003, nearly 2.8 million U.S. manufacturing jobs were eliminated. Incredibly, New England lost more than 214,000 manufacturing jobs in the decade between June 1993 and June 2003.

According to the National Association of Manufacturers, between January 2001 through January 2004, manufacturing employment in our Nation declined by 16 percent. In New England, there was a 20 percent decrease in manufacturing employment during that same time period. This means that between January 2001 and January 2004, New England's manufacturing sector employment declined by an alarming 28 percent faster rate than it did nationally.

My home State of Maine has been shedding manufacturing jobs at an alarming rate over the past decade—and all the more so in the past two years. From January 1993 through June 2003, a 10½ year period, Maine lost 18,900 manufacturing jobs. More specifically, from July 2000 to June 2003, Maine has lost 17,300 manufacturing jobs—the highest loss of any State during that time period.

In addition to passing this legislation to reverse these trends, we are also here to replace the Foreign Sales Corporation/Extraterritorial Income, FSC/ETI, rules. Congress enacted these rules to make U.S. exporters more competitive overseas by reducing their maximum income tax rate on export income from 35 percent to about 29.75 percent. This incentive is necessary to offset the disadvantage that U.S. exporters face vis-a-vis foreign competitors who benefit from a territorial tax regime. Nevertheless, the World Trade Organization, WTO, determined that the FSC/ETI rules provide an impermissible export subsidy, meaning Congress must repeal those rules or face over \$4 billion in trade sanctions. Those sanctions began to take effect March 1.

At the same time, repealing these rules will result in a nearly \$50 billion tax increase on the manufacturing sector over the next ten years. Consequently, we need to replace the FSC/ETI regime with an appropriate substitute that not only complies with WTO rules but, more importantly, protects our own manufacturing base.

Our objectives should therefore be clear: not only must we pass legislation to comply with international trade law, but more importantly, we need to offer our country's manufacturers with a solution that will jumpstart their production and create jobs, and we must do so right now. Were we to neglect this duty to ensure that our nation's manufacturers are simply given the chance to compete on a level playing field with foreign competitors, we would only be compounding the current situation—a

result with which I am sure very few persons, particularly those workers who have lost their jobs would be pleased.

Our task, then, is to identify the best way to "reallocate" the \$50 billion in revenues that replacing the FSC/ETI rules will generate and ensure that those funds continue to benefit their original beneficiary—namely our manufacturers. For that reason, I am pleased that the main component of this bill provides direct tax relief to the manufacturing sector of our economy. By permitting manufacturers to exclude from tax a portion of their income earned directly from manufacturing operations that employ U.S. workers and are located in the United States, we will continue to ensure that our Nation's manufacturers are on a level playing field with foreign competitors, and we will accelerate the overall economic recovery that is so desperately needed and that is already underway.

This legislation, therefore, provides poignant, targeted tax relief directly into the sector of our nation's economy that needs it most. In short, this income tax rate reduction for manufacturers will reduce their cost of doing business and increase their ability to compete in a global economy. Consequently, these businesses will be able to reinvest this savings directly into their operations, thereby increasing productivity and creating jobs.

To achieve these results, it is essential that this tax relief must be available for all manufacturers—regardless of entity classification. As such, I along with several Senators worked hard during the Finance Committee's markup to insist that this bill apply to small businesses that operate in the form of S-corporations, partnerships, limited liability companies, and sole proprietorships. With small business manufacturers constituting over 98 percent of our Nation's manufacturing enterprises, employing 12 million people, and supplying more than 50 percent of the value-added during U.S. manufacturing, it is imperative that we not turn our backs on these hard working taxpayers.

Despite the significance that small businesses play in our country's economy, and despite the fact that not every manufacturer operates as a corporation, some contend that in place of this bill's targeted manufacturing relief, a more appropriate course of action would be to provide an across-the-board 2 percent tax cut for all domestic corporations—regardless if they are manufacturers.

I find this alternative problematic for two reasons. First, this proposition forgets the reason why we are here in the first place—namely to reallocate tax cuts that Congress provided specifically for domestic manufacturers in an effort to maintain their international competitiveness. Doesn't it make sense to ensure that all manufacturers, which are the primary beneficiaries of

the FSC/ETI rules, continue to be the primary beneficiary of its replacement legislation, particularly when the manufacturing sector of our economy is already struggling to compete and preserve jobs?

After all, the main goal of this bill is to increase the competitiveness of our manufacturing base and stop the current job loss trend, meaning legislation that is not necessarily focused exclusively on manufacturing sector might fall short of this goal. Rather, the focus must remain on promoting domestic job creation, and the legislation before us accomplishes this task much more effectively than would an across-the-board tax cut that is exclusive to corporations.

In addition, an across-the-board corporate rate cut limits this tax relief to only corporations—something that is simply unacceptable as small businesses, many of which are S-corporations, limited liability companies, partnerships, and sole proprietorships, are the true engine that drives this economy and are responsible for a majority of domestic job creation. Indeed, small businesses account for 97.5 percent of America's manufacturing enterprise . . . and contribute three-quarters of all new jobs nationwide. It is therefore imperative that this legislation, which is intended to "Jumpstart Our Business Strength," include all manufacturers, particularly all small businesses, so that we continue this upward trend and reinvigorate America's entrepreneurial spirit.

Along those lines, I am also pleased that Chairman GRASSLEY incorporated several other of my provisions during the Finance Committee's markup of this bill. For example, current law permits small businesses to expense, rather than depreciate, up to \$100,000 spent on equipment used in their trade or business. While this provision encourages capital investments and stimulates economic growth, the current phase-out limits the number of small businesses that can qualify.

My provision already in this bill increases the phase out threshold—thereby increasing the number of eligible small businesses for this much-needed tax relief. In turn, these taxpayers will be provided with greater incentive to expand their operations that will not only increase productivity but ultimately create jobs.

Another one of my provisions included in this legislation is based on my bill S. 885—The Small Business Investment Company Capital Access Act of 2003. In short, this bill provides that certain government-guaranteed debt capital of Debenture Small Business Investment Companies, SBICs, is excluded from the definition of "debt" for purposes of the unrelated businesses taxable income rules.

This change is necessary because under current law, potential tax-exempt investors such as pension funds and universities are dissuaded from in-

vesting in small businesses due to the tax liability that would result from the SBICs. By eliminating this problem and expanding the capital available for SBICs to invest in the nation's small businesses at the modest rate of \$1 million per year, this provision has the potential to result in \$500-\$600 million of new capital investments in SBICs, which in turn will create thousands of jobs each year.

Furthermore, this bill includes specific provisions at my urging that will benefit greatly many taxpayers in my home State of Maine. In committee, I worked to ensure that the tax relief in this bill was extended to "unprocessed softwood timber." The Softwood Lumber industry, like paper and steel, has faced unfair trade from countries that subsidize their products and dump them on the U.S. market. For that reason, combined with the fact that this legislation is intended to benefit manufacturers in general and not only exporters, it is essential that this legislation extend this tax relief to the timber industry.

Similarly, I urged Chairman GRASSLEY to include a provision in this legislation that would classify gains resulting from the sale or exchange of timber as capital rather than ordinary. The crux of this provision is to change the way in which capital gains are calculated for timber by taking the amount of gain and subtracting three percent for each year the timber was held. This change is necessary because although individuals pay a maximum capital gains rate of 15 percent, corporations must still pay a 35 percent rate. As such, this change will reduce the rate of tax for corporations that sell timber, therefore making the U.S. forest products industry more competitive internationally and preserving domestic jobs.

In addition to these provisions that already are included in the bill, I am working with Chairman GRASSLEY on an amendment that I have filed that will not only spur economic growth but that will also go a long way in bolstering our national security. Currently, navy shipbuilders are treated unfairly by the tax code because they are required to pay tax based on an expected percentage of their profits. This treatment is problematic because oftentimes, they do not receive payment for several years, meaning the income tax has an overly burdensome effect on their cash flow and their overall production.

My amendment would change this treatment by placing navy shipbuilders on equal treatment with commercial shipbuilders in allowing them to pay 40 percent of their estimated income tax during the contract and the remaining 60 percent upon completion of the contract so long as the contract does not exceed 8 years. Importantly, this amendment does not in any way affect the amount of tax that navy shipbuilders will pay; rather, it simply affords a more equitable payment schedule to allow these taxpayers to satisfy

more of their tax obligation at a time in which they have cash in hand. I hope that in working with the chairman, we will find a way to address this unfair disparity that is harming our Nation's naval shipbuilders.

Accordingly, I believe that the bill before us strikes the proper balance of providing needed tax relief to the taxpayers in our economy who need it most. It has taken a great deal of work to get us where we are today, yet I firmly believe that providing targeted, affordable tax relief to the manufacturing sector of our economy is certainly the right path to choose in repealing the FSC/ETI rules.

The key here is that this bill simply reallocates the revenue that repealing the FSC/ETI rules will raise and distributes it directly to the primary beneficiaries of those rules—our country's manufacturers, which is indeed appropriate as the manufacturing base is in dire need of help.

While the legislation also simplifies the international tax code and contains other miscellaneous tax cuts designed to create jobs, it does so without increasing the federal budget deficit because it contains tax offsets that will thwart taxpayers' participation in illegal tax shelters and abusive leasing transactions. Consequently, unlike previous tax bills, this legislation is revenue neutral. Therefore, not only is this bill affordable, but it is much needed in order to bolster our manufacturing base and enhance the competitiveness of the U.S. based businesses.

Thank you, Mr. President.

#### MEDICAL LIABILITY REFORM

Mr. CHAFEE. Mr. President, earlier today I voted in favor of invoking cloture on the motion to proceed to S. 2207, the Pregnancy and Trauma Care Access Protection Act. My vote was not an endorsement of S. 2207 as it was introduced in the Senate. In fact, I have concerns about various aspects of the bill—including the \$250,000 cap on noneconomic damages—and I anticipate supporting amendments to S. 2207 if the Senate has an opportunity to fully debate this legislation.

However, I do believe that reform of the medical liability system should be considered as part of a comprehensive response to surging medical malpractice premiums that endanger Americans' access to quality medical care by causing doctors to leave certain communities or to cease offering critical services, such as obstetrical care. For this reason, I voted for cloture on S. 2207 in an effort to move the debate forward.

The PRESIDING OFFICER. The majority leader is recognized.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO FLORA ALLEN

Mr. MCCONNELL. Mr. President, I rise today to honor the life of a noted Kentuckian and inspiring educator, Ms. Flora Allen. I also take this opportunity to extend my condolences to her daughters, Nora Ruth Jenkins and Margaret Cornelison, her five grandchildren, and all who knew and loved this remarkable woman.

Ms. Allen knew she wanted to be a teacher at a very early age. What she didn't know was the amazing impact she would have on the students she taught.

After moving to Berea, KY in 1946, she earned her bachelor's degree in teaching from Berea College and her masters from Eastern Kentucky University. She taught Kentucky history, social studies and science for 32 years. In addition to the traditional lessons, Ms. Allen also taught life lessons, such as how to behave and treat others.

When Ms. Allen was away from the classroom, she was busy in her community. She was a member of the Lioness Club, Berea Retired Teachers Association, Progress Club, Delta Kappa Gamma, and Berea Baptist Church where she taught Sunday school and Bible school. Ms. Allen spent her summers and remaining spare time working in the flower shop she owned with her husband, Allen's Flowers. Even with all this activity, Ms. Allen's best and most admirable attributes can be seen through the lives she touched.

It has become cliché to say that teachers inspire. Undoubtedly, informed of such a happening, Ms. Allen would simply have smiled and stated that it had been her goal all along. What is not cliché is the fact that she instilled in her students a desire to learn, to know, and to understand. Not all of her former students went on to be historians. However, it is certain that a great many of them who were inspired by her have become better citizens.

I ask each of my colleagues to join me in paying tribute to Flora Allen; for all that she gave to her community, her students, and to her family. She will be missed.

#### UNR RIFLE TEAM

Mr. REID. Mr. President, I rise today to congratulate the rifle team from the University of Nevada Reno on its terrific season this past year.

The Wolf Pack finished the regular season undefeated, making it one of only eight squads eligible for the NCAA Rifle Championships in both the air rifle and small bore disciplines. The Wolf Pack finished third and fourth respectively in these two categories and placed second overall in the two-day competition.

Developing excellence in marksmanship requires countless hours of practice and tremendous skill. The UNR rifle team's accomplishments reflect a lot of hard work and dedication by the

individual members and their coach Fred Harvey. The university and the State can take great pride in their achievements.

Once again, congratulations to the Wolf Pack Rifle Team on a tremendous year, and best wishes for continued success next season.

#### HONORING OUR ARMED FORCES

##### PFC JOHN D. AMOS II

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Valparaiso, IN. Private First Class John Amos II, 22 years old, died in the northern city of Kirkuk, Iraq on April 4, 2004, during an attack when the military vehicle he was riding in was struck by an improvised explosive device.

After graduating from Valparaiso High School in 2002, John joined the Army and was assigned to the C Company, 1st Battalion, 21st Infantry Regiment, 2nd Brigade, 25th Infantry Division, Schofield Barracks, HI. According to his mother, John was serving as the rear guard during a patrol at the time of his death. His deployment began when he joined the efforts in Iraq only 2 months ago. With his entire life before him, John chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

John was the 26th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. This brave young soldier leaves behind his father, John; his mother, Susan; his grandfather, Hank Amos; grandparents Doug and Lucy Whitehead; his sister, Rebecca; and his two half brothers Hunter and Tyler. May John's siblings grow up knowing that their brother gave his life so that young Iraqis will some day know the freedom they enjoy.

Today I join John's family, his friends, and the entire Valparaiso community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of John, a memory that will burn brightly during these continuing days of conflict and grief.

When looking back on the life of her late son, John's mother, Susan, told the Gary Post-Tribune that her son "was a fun-loving kid and a lot of fun." Today and always, John will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while serving his country.

As I search for words to do justice in honoring John's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled

here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of John's actions will live on far longer than any record of these words."

It is my sad duty to enter the name of John D. Amos II in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like John's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless America.

#### RETIREMENT OF OFFICER JOHNNY WILSON FROM THE U.S. CAPITOL POLICE

Mr. ROBERTS. Mr. President, I rise today to recognize the distinguished service of Officer Johnny Lee Wilson of the U.S. Capitol Police. Officer Wilson has been posted at the Senate Select Committee on Intelligence for the past 14 years. Regrettably, on April 30, 2004, Officer Wilson will retire from the Capitol Police after more than 27 years of dedicated service.

Officer Wilson was born in Shelby, NC, on November 5, 1945. Following a move to Washington, DC, he finished high school. He then served in the Armed Forces, where he saw combat in an Army infantry unit in Vietnam in the late 1960s. At the conclusion of his tour, he was decorated for outstanding performance.

Officer Wilson then returned to Washington, DC, to pursue his college degree. In 1975, he graduated from Washington, DC's Howard University with a bachelor of science degree.

In April 1977, Officer Wilson began his service with the U.S. Capitol Police. For nearly three decades, he has dedicated himself to protecting the lives of visitors, staff, and Members as they go about their daily business here on Capitol Hill. It is a job which has become increasingly stressful since the terrorist attacks of 9/11. Despite the added threats, Officer Wilson has performed his duties superbly. His patience, discipline, and attention to detail have made him an asset to the Capitol Police and to the Intelligence Committee.

Officer Wilson's tireless dedication to the U.S. Capitol Police should serve as an inspiration to everyone in law enforcement. He is a tremendous officer and a great friend to many in the U.S. Senate. He will be truly missed as he enjoys his well-earned retirement.

Congratulations Officer Wilson, you are a fine public servant and a man of

integrity and character. I extend my best wishes to your wife Weddie and your children—Gina and John-Paul. Good luck to you in retirement and thanks again for your fine service.

Mr. ROCKEFELLER, I add my voice to the comments of my colleague, Senator ROBERTS, concerning the contributions and outstanding performance of Officer Johnny Wilson from the United States Capitol Police. Officer Wilson is a 27-year veteran of the Capitol Police who is scheduled to retire in a few days. He has spent the past 14 years posted outside the offices of the Senate Intelligence Committee. During that time, we came to think of Johnny as part of our staff and part of our family. It will be both odd and disappointing not seeing him outside our door every morning.

Officer Wilson, a Vietnam veteran, joined the Capitol Police on April 4, 1977, and has dedicated his career to protecting the lives of Members of Congress, their staffs and the thousands of tourists who visit Capitol Hill each year. He is a fine example of the professionalism, dedication and work ethic of the men and women of the United States Capitol Police.

But what sets Johnny apart is the way in which he carries out his duties. He is outgoing and upbeat, with a hello and a kind word for anyone who crosses his path. Everyone that passes through the second floor corridor outside the Intelligence Committee Hart Building offices knows Johnny and he knows them—if he doesn't he makes them think he does. At the same time he is unflappable when confronting tense situations and approaches his responsibilities with complete seriousness.

In an era of technological advancements in biometrics and other enhanced security identification methods, there is absolutely no substitute for a professional law enforcement officer on the first line of defense. With Officer Wilson on the job, we all knew we were well protected.

Officer Wilson's dedication to the United States Capitol Police has been proven on many occasions and he has been an excellent example of someone raising the bar of excellence for his peers. He has been a great friend to many in the United States Senate and he truly will be missed. I congratulate this fine public servant, a man of integrity and character, and I wish him well in his impending retirement.

#### WORLD HEALTH DAY

Mr. DORGAN. Mr. President, I come to the Senate floor today to talk about an issue that is very important to me personally, but one that is also quickly becoming a concern across the globe: traffic crashes and the resulting fatalities and injuries.

Today is World Health Day. World Health Day is celebrated every year on April 7, focusing each year on a different public health problem. For the first time ever, in response to the

growing number of traffic deaths worldwide, the World Health Organization chose the theme of "Road Safety" for World Health Day 2004. The goal is to raise awareness of traffic safety in hopes of reducing the staggering number of traffic related fatalities and injuries that occur worldwide each year. Efforts are being launched today in the U.S. and worldwide to encourage action in policy, programs, funding and research on traffic safety.

Consider these statistics: Every year, nearly 1.2 million people die worldwide in motor vehicle crashes and an estimated 10 to 15 million people are injured. In the U.S. alone, almost 43,000 people are killed each year and nearly 3 million are injured. Traffic crashes are the leading cause of death for people ages 1-34 and are one of the top ten causes of death for all ages. In North Dakota, it is estimated that motor vehicle crashes cost our citizens \$290 million in 2000, or \$452 per person. Sadly, experts predict that road traffic fatalities will double by the year 2020.

Today in Washington, the Pan-American Health Organization, PAHO, along with the National Highway Traffic Safety Administration, AAA, and many other organizations are emphasizing the importance of safety belt use as part of the efforts for World Health Day. Seat belts are the single most effective means of reducing the risk of death in a crash and have saved approximately 135,000 lives and prevented 3.8 million injuries in the last 26 years in the U.S. If everyone consistently wore a seat belt, more than 7,000 American deaths could be prevented each year.

This initiative coincides with our efforts in Congress to reauthorize the transportation bill. I supported passage of the Senate bill, which would provide a needed boost in funding and policy support for important safety initiatives, and offered an amendment to crack down on an important traffic safety issue, states that allow driving with an open container of alcohol.

I applaud the World Health Organization, PAHO, AAA and all the individuals and organizations that are working today and throughout the year to draw attention to the growing problem of traffic crashes. We need to sound the alarm—43,000 deaths in the U.S. and 1.2 million worldwide are too many.

Mr. DEWINE. Mr. President, today I recognize World Health Day, which is celebrated every year on April 7 in order to bring awareness to a specific health issue of global significance. This year, the World Health Organization has selected "Road Safety" as the theme for World Health Day.

Road safety is an imperative public health challenge that needs to be addressed. Every year, nearly 1.2 million people die in motor vehicle crashes worldwide and an estimated 10 to 15 million people are injured. In the United States, nearly 43,000 people die each year from motor vehicle crashes, making auto fatalities the number one

killer of those between the ages of 4 and 34. Despite these already tragic and staggering statistics, some experts predict that motor vehicle fatalities will double by the year 2020, thus becoming the third greatest global health challenge, jumping from its current ranking of ninth.

The goal of World Health Day 2004 is to raise public awareness of traffic safety in hopes of reducing these motor vehicle fatalities and injuries worldwide. Wearing a seat belt continues to be the most effective means of reducing the risk of death in a crash and the implementation of a national primary seat belt law could save thousands of lives each year. Other important traffic and vehicle safety actions, such as greater consumer awareness of vehicle safety, stronger emphasis of safety with regard to vehicle design, stronger driver education programs, and the identification and disclosure of dangerous roads and intersections would greatly improve road safety and save lives. We have made some progress on these important issues here in the Senate, but we have a long way to go.

I would like to thank the World Health Organization, AAA, the Pan-American Health Organization, the National Highway Traffic Safety Administration, and other important organizations all over the world that have worked tirelessly to confront this global epidemic of motor vehicle fatalities. Their work is saving lives.

Mrs. MURRAY. Mr. President, since 1948, countries all over the world have recognized April 7 as World Health Day as a way to raise awareness of a specific health issue that has global significance. In previous years, World Health Day focused on issues such as the importance of creating healthy environments for children, addressing emerging infectious diseases, and reducing the stigma associated with mental health treatment. The theme for this year is road safety which is perhaps not something that is often thought of as a public health risk. However, each year motor vehicle crashes have a devastating and tragic impact on millions of families all over the world.

In 2002, motor vehicle crashes killed nearly 1.2 million people worldwide and injured as many as 50 million more. If the current trend continues, the World Health Organization estimates that by the year 2020, road traffic deaths and disabilities will become the third leading contributor to the global burden of disease and injury ahead of strokes, tuberculosis and HIV.

The toll of these crashes is no less significant here in the United States. Over 42,800 people were killed and nearly 3 million people were injured on our own country's roads and highways in 2002. That's one person—a parent, child, friend, or colleague—killed in a car crash every 12 minutes of every single day. Beyond the overwhelming emotional impact that these deaths and injuries wreak on our commu-

nities, they also cost our economy over \$230 billion a year.

Today as countries around the globe put a spotlight on the issue of road safety, it is equally important to examine what we are doing here in our own country to prevent these crashes.

As the former chairman and now as the ranking member of the Transportation Appropriations Subcommittee, I have worked to improve transportation safety over the years and I would like to talk about some of the ways we can save lives and prevent injuries.

To look at this in a very basic way, there are three categories of events that can go wrong on the road and have deadly consequences. First, there can be hazardous road conditions such as poor weather, narrow lanes or dangerous curves. Second, there can be a catastrophic failure in the vehicle such as a blown tire or worn out brakes. And finally, the driver's own behavior can mean the difference between life and death on the road, whether it is neglecting to wear a seat belt; driving while intoxicated; speeding; or, falling asleep at the wheel.

The investments that we make in our roads, the standards that we set for vehicles and the laws that we enact to change driver behavior all can help reduce the number of fatalities on our Nation's roads and highways.

Often when we talk about transportation funding, we focus on the highway construction jobs that will be created and the congestion that will be relieved. We also must mention how our transportation investments improve safety on our roads and highways. I would like to take the occasion of World Health Day to highlight two areas, in particular, where we hope our transportation investments will help change driver behavior.

The Omnibus appropriations bill that passed the Senate a few months ago increased funding for the National Highway Traffic Safety Administration's drunk driving program by more than 40 percent. These funds will help States develop and implement a tracking system for those repeat offenders who drive drunk time and time again. They will also help better educate the judges and prosecutors that handle drunk driving cases so that sanctions will be applied in a consistent manner.

It is well known in the highway safety community that the best way to deliver the message about the perils of drinking and driving is through high visibility enforcement programs. On the Transportation Appropriations Subcommittee, I have worked with Senator SHELBY to include funding for a national paid media campaign for NHTSA's "You Drink and Drive. You Lose" program. This media campaign, which coincides with impaired driving safety mobilization efforts, delivers the message to drivers that law enforcement is out in force conducting sobriety checkpoints and that if you are caught driving under the influence, there will be serious legal consequences.

The Omnibus appropriations bill included \$14 million for paid advertising; \$2.75 million to support State-impaired driving mobilization efforts; and \$3 million to pilot new and innovative strategies to combat impaired driving. This funding, in combination with strong State laws, provides us with an opportunity to reverse the unfortunate upward trend in the number of alcohol-related fatalities.

Another contribution that the Omnibus appropriations bill made toward transportation safety is in the area of seat belts. The most important thing you can do to protect yourself in the event of a car crash is to wear your seat belt. In fact, in 2002, the year for which we have the most recent data, seat belts saved over 14,000 lives. The FY 2004 bill included \$14 million for the "Click It or Ticket" program, which is a national paid media campaign similar to the impaired driving effort I just mentioned, however, its focus is on getting families to buckle up.

This is the third year in a row that Congress has provided funding for "Click It or Ticket," and we are seeing some positive results. Last year, NHTSA estimated that seat belt use had risen to 79 percent nationally, its highest use rate ever. My State of Washington led the country with nearly 95 percent of our citizens wearing their seat belts.

Our efforts to reduce drunk driving and increase seat belt use are just two examples of the steps we are taking to address the safety challenges we face on our Nation's highways. As a member of the Transportation Appropriations Subcommittee, I will continue to work to provide funding for programs that tackle these issues and take the opportunity on occasions such as this to highlight the importance of safety on our Nation's roads.

#### CAPT RONALD H. HENDERSON

Mr. KENNEDY. Mr. President, it is a privilege to pay tribute to an impressive leader who has dedicated his life to the service of our Nation. CAPT Ronald H. Henderson, Jr. has served with great distinction as a fighter pilot in the United States Navy for over 27 years, and was recently nominated for promotion to the rank of Rear Admiral.

During his career, Captain Henderson has served as a Strike Operations Officer and a Tactical Action Officer aboard the USS *Enterprise*; an F/A-18 Strike Fighter Pilot, a Department Head with Strike Fighter Squadron 25; and Commanding Officer of Strike Fighter Squadron 146, the "Blue Diamonds," where his squadron was honored with the Estocin Award, as the best F/A-18 squadron in the entire U.S. Navy. The award is named for CAPT Michael J. Estocin, a fighter pilot in the Vietnam conflict who was posthumously awarded the Congressional Medal of Honor for remaining in the target area on a bombing mission even though his aircraft was badly damaged.

Captain Henderson has had over 3,800 flying hours and over 600 carrier landings, and has earned the Defense Superior Service Medal, the Legion of Merit, the Bronze Star, three Meritorious Service Medals, the Air Medal, three Navy Commendation Medals, and numerous unit and campaign awards.

Captain Henderson has participated in Operation Desert Shield, Operation Southern Watch, Operation Allied Force, and most recently in Operation Enduring Freedom where he commanded the aircraft carrier named after my brother, the USS *John F. Kennedy*, CV-67.

Captain Henderson brought the ship and crew back home safely in August 2002 and was greeted by 10,000 supporters for a well-deserved homecoming in Mayport, FL.

Captain Henderson will soon turn over his command of the carrier to assume his new responsibilities. I am sure my brother would be proud of his leadership, and I wish him well in the years ahead as he continues his brilliant career in the Navy.

#### ADDITIONAL STATEMENTS

##### CONGRATULATIONS TO MS. KELSEY TAMAYO

• Mr. BUNNING. Mr. President, I would like to take a moment today to congratulate Ms. Kelsey Tamayo of Radcliff, KY, for her selection to the From the Top radio showcase.

Ms. Tamayo was chosen to represent the Hardin County Schools and the Commonwealth of Kentucky in this national recognition program. Though she is only 15 years old, Ms. Tamayo is an accomplished percussionist. For this showcase, she traveled to Emory University in Atlanta to tape her performance and interview along with other accomplished musicians from around the country.

In November, Ms. Tamayo was named one of six winners of the Young Classical Artists Competition sponsored by the School of Music at the University of Louisville.

While Ms. Tamayo plays more than 20 instruments, she choose to play the Vibraphone in both the University of Louisville competition and on the From the Top broadcast.

Public Radio International's From the Top is a weekly radio series that showcases the nation's most exceptional pre-college age classical musicians. This show has been broadcast since January of 2000 and currently reaches 130 public radio stations and over 240 stations nationwide. The show's slogan is celebrating ordinary kids who do extraordinary things. I would like to congratulate the show and public radio for highlighting the musical successes of our youth.

Congratulations again, Ms. Tamayo, on being selected to perform on From the Top. You are truly an inspiration for all of us throughout the Common-

wealth of Kentucky. We all look forward to your continued success and achievement.●

##### WE THE PEOPLE PROGRAM

• Mr. CAMPBELL. Mr. President, I would like to take a moment to recognize an important civic education program that is available to many youngsters within this country: We the People. This program, administered by the Center for Civic Education and funded by the U.S. Department of Education by act of Congress, is an extensive educational program that was developed specifically with the purpose to educate youngsters about the U.S. Constitution and Bill of Rights. And, this year, from May 1 through 3 more than 1,200 students from across the United States will visit Washington, DC, to take part in the national finals of We the People: The Citizen and the Constitution.

I recognize the six schools that participated in the We the People Colorado State competition and the more than 15 lawyers, judges, professors, and community leaders who judged these competitions. Thank you for your hard work and dedication to such an important topic. And, I am proud to announce that the class from East High School from Denver will represent the great State of Colorado in this prestigious national event. By displaying their knowledge of the U.S. Constitution, these outstanding youngsters won the statewide competition and earned a chance to come to our Nation's capital and compete at the national level.

I truly believe that a thorough understanding and knowledge of our Nation's founding documents will help folks understand and appreciate the sacrifices that our forefathers made, and this will inspire them to stand up for what is right and just.

I wish the students from East High School the best of luck at this year's We the People national finals and I applaud their achievement.●

##### CONGRATULATIONS TO ELSIE ATHERTON

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Elsie Atherton on her reception of the 2004 Champion for the Aging award given to her by ElderServe of Louisville, KY.

Ms. Atherton has dedicated herself to helping improve the lives of senior citizens in Kentucky. Her devotion to this cause was put to great work during her time at Metro United Way and United Way of Kentucky. She has done a wonderful public service through her efforts to combat elder abuse and financial exploitation of seniors. She has also been active in delivering meals to homeland senior citizens.

The citizens of Kentucky are fortunate to have the leadership of Elsie Atherton. Her example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth.

She has my most sincere appreciation for this work and I look forward to her continued service to Kentucky.●

##### WILEY DOBBS RECOGNIZED FOR INVOLVEMENT IN THE IDAHO CONGRESSIONAL AWARD PROGRAM

• Mr. CRAIG. Mr. President, education is the fundamental base that enables our youth to transition to adulthood. The basic principles students learn provide them with the necessary skills to become productive and responsible citizens. In Idaho we view education as an investment not to be taken lightly. It is essential our students are well prepared so that the journey through the halls of our schools will end at the doorway to success.

The preparation for this passage is intense. Not only must our students understand the basics of science, civics, and communication, but they are expected to defend themselves in the face of peer pressure and poor choices. In order to achieve this, we look to those who serve on the front lines of our education system. It is our teachers who will help students aspire to greatness. In Idaho, our teachers do more than expected by expressing to our students the importance of giving back to our communities. They show our students an avenue through which to improve themselves and the cities and towns from which they come. Teachers who encourage community service ought to be thanked.

I thank all the administrators, staff, and teachers in Idaho schools for helping our students visualize their self-worth, thus enabling them to achieve greatness. In addition, today I would like to single out one educator in particular for his dedication and commitment to our local community.

Wiley Dobbs has served in nearly every level of the education system over his tenure in southern Idaho. From time spent as a student at Morningside Elementary school, to his current position as superintendent of the Twin Falls School District, Wiley Dobbs has had a positive impact on the lives of others every step of the way. The standard of excellence set by Wiley is one for which all Idaho educators should strive.

Wiley began his higher educational endeavor at the College of Southern Idaho where he received an associates degree. He later went on to receive two bachelors degrees in social science and health and physical education from Boise State University. Wiley began his career as a teacher in Montpelier, ID who he taught five subjects and coached three sports. He then moved to Twin Falls and taught at both O'Leary Jr. High School and Twin Falls High School. During his time in the high school he taught courses in Government and English, coached wrestling, and worked toward receiving his master's degree in education from Albertson College of Idaho.

After receiving his master's degree, Wiley made the transition from educator to administrator. Despite the shifting role, Wiley positive impact on students only improved. As principal of the Magic Valley Alternative High School, he increased enrollment from 40 to over 125 students in only 2 years. Wiley also served as Principal of O'Leary Junior High School in Twin Falls. His outstanding work with both the students and faculty in the southern Idaho school district was recognized not only by the local community, but by the state, as well. In 1999, the Idaho Associates of Secondary School Administrators, MetLife, and the National Association of Secondary Principals named him Idaho's Secondary Principal of the Year. In 2001, Wiley was named the State Middle Level Educator of the Year.

Wiley's work is also recognized on the national level. His involvement on the Idaho Congressional Award Board has raised the number of Idaho recipients to one of the highest in the nation. Students receive the honor by registering on the national level, and then completing hundreds of hours of community service in four separate categories: volunteer public service, personal development, physical fitness, and expedition exploration. Those students receiving the Gold Medal will have completed at least 700 hours of community service over a 2-3 year period. Wiley has advised and helped approximately a third of Idaho's Gold Medal recipients since the beginning of his involvement in 1993 when he was named to the post by Congressman MIKE CRAPO.

Wiley Dobbs has been the driving force behind the Idaho Congressional Award Program. He has inspired, motivated, and encouraged hundreds of Idaho's youth to receive the national honor. His efforts have solidified Idaho's presence in the national program, and it is his investment in Idaho's students that will benefit all our local communities. I hope all of us, especially those involved in our education system, will look to the example set by Wiley Dobbs. His leadership and dedication to our children are an inspiration to us all.●

#### TRIBUTE TO CHAD BENHAM

● Mr. BUNNING. Mr. President, I rise today to pay tribute to Chad Benham of Brandenburg, KY. Recently Mr. Benham has been named as the national winner of the Agricultural Mechanics Energy Systems-Entrepreneurship/Placement Proficiency Award for the Future Farmers of America.

The Proficiency Awards recognize achievement by students who have excelled in developing specialized skills that will apply toward a career goal in agriculture. The awards also consider community service and leadership activities of a student.

The citizens of Brandenburg, KY are fortunate to have Mr. Benham living

and learning in their community. His example of hard work and determination should be followed by all in the Commonwealth of Kentucky.

I would like to congratulate Mr. Benham for his success. But also, I want to congratulate all his peers, teachers, administrators, and his parents for their support and sacrifices they have made to help Mr. Benham reach his goal and fulfill his dreams.●

#### REVEREND AND MRS. CHARLES CHATMAN

● Mr. TALENT. Mr. President, I rise today to honor Reverend and Mrs. Charles Chatman, who are the founders of the Charles Chatman Evangelistic Association. Reverend Chatman accepted the call into ministry at the age of 16 in 1958. He and Jean were married in 1960 and have ministered together for the last 44 years. Reverend Chatman served as the senior pastor in churches throughout Missouri until he and Jean entered into full time evangelistic work in 1975.

Since that time, the Chatmans have traveled to many countries leading mission teams and crusades. They have ministered in Haiti, Dominican Republic, Mexico, Trinidad and India.

In over 29 years of work in Haiti, the Chatmans' ministry has built 30 churches, one medical clinic and a children's orphanage. Immanuel Orphanage, in the village of Bombardopolis, is home to 250 children. The Chatmans have led over 3,000 people from across the United States on mission trips overseas. The Chatmans are committed to bringing hope to all those they encounter. Reverend Chatman and his wife Jean are dedicated to the glorious service of their Lord and Savior.

Charles and Jean Chatman are proud parents of Darla, husband Brian, Cindy, husband Dan, and Bryan. They have five wonderful grandchildren: James, Ashley, Brandy, Jessica, and Wilna.

I commend Reverend Chatman and his wife Jean for their outstanding years of service. Their message of hope is an inspiration and blessing to all of us. I am honored to share their successes with my colleagues, and I wish them the best for the future.●

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

#### PETITIONS AND MEMORIALS

POM-378. A resolution from the Wisconsin Commercial Ports Association relative to funding for lock and dam infrastructure on the Mississippi and Illinois Rivers; to the Committee on Commerce, Science, and Transportation.

POM-379. A resolution adopted by the Board of Commissioners of Ferry County of

the State of Washington relative to federal lands in Ferry County, Washington; to the Committee on Energy and Natural Resources.

POM-380. A resolution adopted by the Council of the City of Warrensville Heights of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003 and The Retirement Income Security Act of 1974; to the Committee on Health, Education, Labor, and Pensions.

POM-381. A resolution adopted by the Council of the City of Mayfield Heights of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

POM-382. A resolution adopted by the Council of the City of Brook Park of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

POM-383. A resolution adopted by the Council of the City of Mayfield Village of the State of Ohio relative to the Breast Cancer Patient Protection Act of 2003; to the Committee on Health, Education, Labor, and Pensions.

POM-384. A resolution adopted by the Board of Trustees of the Village of Oak Park of the County of Cook of the State of Illinois relative to the Patriot Act; to the Committee on the Judiciary.

POM-385. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the Healthy Marriage Initiative; to the Committee on the Judiciary.

#### SENATE RESOLUTION NO. 215

Whereas, marriage, one of our most fundamental institutions, strengthens our society when two people enter a mutual, lifelong agreement to support each other in sickness, difficult financial times, and old age; and

Whereas, marriage enriches the couple, their children, and the community around them by providing opportunities to extend love, support, understanding, and mutual cooperation; and

Whereas, couples and children blessed with healthy marriages tend to engage in less risky behavior, enjoy better physical and mental health, be more financially secure, and attain higher levels of education and employment; and

Whereas, President George W. Bush has announced a Healthy Marriage Initiative to highlight programs teaching marriage skills and education, promote marriage mentoring and enrichment programs, reduce disincentives to marriage, and promote the value of marriage to our culture; and

Whereas, because the President launched the Health Marriage Initiative, the Michigan House of Representatives and the Michigan Senate appropriated \$750,000 to fund a marriage initiative in Michigan; and

Whereas, marriage is both a personal, private relationship and a public commitment licensed by the state of Michigan; and

Whereas, many of the expenditures by the state are closely tied to people harmed by failed or never formed marriages, and any long-term strategy for reducing dependency on state social services and ensuring economic growth must include a strategy for encouraging healthy marriages; and

Whereas, February 7-14, 2004, is being celebrated throughout the nation as Marriage Week USA; now, therefore, be it

*Resolved by the Senate*, That we hereby call on the President of the United States, elected officials at every level, and citizens of all walks of life to determine during Marriage Week USA, and particularly on Valentine's Day, to consider ways they can strengthen their own marriages and support the marriages of others throughout the state of



Michigan and across the country; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-386. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the Protection of Lawful Commerce in Arms Act; to the Committee on the Judiciary.

#### HOUSE RESOLUTION NO. 184

Whereas, citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms; and

Whereas, lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended. These lawsuits seek monetary damages and other relief for the harm caused by the misuse of firearms by third parties; including criminals; and

Whereas, the manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by federal, state and local laws. Such federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act; and

Whereas, businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended; and

Whereas, the possibility of imposing liability on an entire industry for harm that is solely caused by others in an abuse of the legal system, erodes public confidence in our nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes a reasonable burden on interstate and foreign commerce of the United States; and

Whereas, the purpose of S. 659, the Protection of Lawful Commerce in Arms Act, is to prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended; and

Whereas, S. 659 will also preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting. It will also guarantee a citizen's rights, privileges, and immunities, as applied to the states, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment. The Protection of Lawful Commerce in Arms Act will prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce; and

Whereas, this legislation is intended to protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the government

for a redress of their grievances; now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to enact S. 659, the Protection of Lawful Commerce in Arms Act; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. INHOFE for the Committee on Environment and Public Works.

\*Gary Lee Visscher, of Maryland, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

\*Stephen L. Johnson, of Maryland, to be Deputy Administrator of the Environmental Protection Agency.

\*Charles Johnson, of Utah, to be Chief Financial Officer, Environmental Protection Agency.

\*Ann R. Klee, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

\*Benjamin Grumbles, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. FRIST, Mr. MILLER, Mr. DEWINE, Mr. VOINOVICH, Mr. ALLEN, Mr. CHAMBLISS, Mr. HAGEL, and Mr. DOMENICI):

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; read the first time.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 2291. A bill to redesignate the facility of the United States Postal Service located at 14-24 Abbott Road in Fair Lawn, New Jersey, as the "Mary Ann Collura Post Office Building"; to the Committee on Governmental Affairs.

By Mr. VOINOVICH:

S. 2292. A bill to require a report on acts of anti-Semitism around the world; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself and Mr. WYDEN):

S. 2293. A bill to provide for the orderly termination of the United States Court of Federal Claims, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2294. A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. DORGAN, Mr. SCHUMER, Mrs. CLINTON, and Mrs. BOXER):

S. 2295. A bill to authorize appropriations for the Homeland Security Department's Directorate of Science and Technology, establish a program for the use of advanced technology to meet homeland security needs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BUNNING:

S. 2296. A bill to require the Secretary of Veterans Affairs to give the Commonwealth of Kentucky the first option on the Louisville Department of Veterans Affairs Medical Center, Kentucky, upon its conveyance, lease or other disposal by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mrs. HUTCHISON (for herself and Ms. SNOWE):

S. 2297. A bill to improve intermodal shipping container transportation security; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX:

S. 2298. A bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 2299. A bill to strengthen the national security by encouraging and assisting in the expansion and improvement of educational programs to meet critical needs at the elementary, secondary, and higher education levels; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. PRYOR, Mr. HOLLINGS, Mr. CORZINE, Mr. EDWARDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DURBIN, and Ms. STABENOW):

S. 2300. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program and to reduce excessive payments to health maintenance organizations and other private sector insurance plans; to the Committee on Finance.

By Mr. INOUE:

S. 2301. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes; to the Committee on Indian Affairs.

By Mr. CONRAD (for himself and Mr. BROWNBACK):

S. 2302. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

By Mr. EDWARDS:

S.J. Res. 31. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EDWARDS:

S.J. Res. 32. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. Res. 333. A resolution commending the Huskies of the University of Connecticut for

winning the 2004 Division I Men's and Women's NCAA Basketball Championships; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 50

At the request of Mr. JOHNSON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 59

At the request of Mr. INOUE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 188

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 188, a bill to impose a moratorium on the implementation of datamining under the Total Information Awareness program of the Department of Defense and any similar program of the Department of Homeland Security, and for other purposes.

S. 448

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 448, a bill to leave no child behind.

S. 622

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 622, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 859

At the request of Mr. CORZINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 976

At the request of Mr. WARNER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1091, a bill to provide funding

for student loan repayment for public attorneys.

S. 1374

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1374, a bill to provide health care professionals with immediate relief from increased medical malpractice insurance costs and to deal with the root causes of the current medical malpractice insurance crisis.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1793, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 1873

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 2106

At the request of Mr. BUNNING, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2106, a bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works.

S. 2130

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2130, a bill to contain the costs of the medicare pre-

scription drug program under part D of title XVIII of the Social Security Act, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2200

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2200, a bill to extend nondiscriminatory treatment (normal trade relations treatment) to the products of Laos.

S. 2207

At the request of Mr. WARNER, his name was added as a cosponsor of S. 2207, a bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

At the request of Mr. GREGG, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2207, *supra*.

S. 2208

At the request of Mr. ROCKEFELLER, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2208, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reduce the amounts of reclamation fees, to modify requirements relating to transfers from the Abandoned Mine Reclamation Fund, and for other purposes.

S. 2236

At the request of Ms. CANTWELL, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2236, a bill to enhance the reliability of the electric system.

S. 2238

At the request of Mr. BUNNING, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2238, a bill to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made.

S. 2258

At the request of Mr. HATCH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2258, a bill to revise certain requirements for H-2B employers for fiscal year 2004, and for other purposes.

S. 2267

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2267, a bill to amend section 29(k) of the Small Business Act to establish funding priorities for women's business centers.

S. 2268

At the request of Mr. BUNNING, the names of the Senator from Wyoming

(Mr. THOMAS) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 2268, a bill to provide for recruiting, training, and deputizing persons for the Federal flight deck officer program.

S. 2270

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2270, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 2286

At the request of Mr. VOINOVICH, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 2286, a bill to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

S.J. RES. 30

At the request of Mr. ALLARD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S.J. Res. 30, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 72

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Con. Res. 72, a concurrent resolution commemorating the 60th anniversary of the establishment of the United States Cadet Nurse Corps and voicing the appreciation of Congress regarding the service of the members of the United States Cadet Nurse Corps during World War II.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr.

DURBIN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 326

At the request of Mr. HAGEL, his name was added as a cosponsor of S. Res. 326, a resolution condemning ethnic violence in Kosovo.

S. RES. 328

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 328, a resolution expressing the sense of the Senate regarding the continued human rights violations committed by Fidel Castro and the Government of Cuba.

S. RES. 332

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 332, a resolution observing the tenth anniversary of the Rwandan Genocide of 1994.

AMENDMENT NO. 2649

At the request of Mr. BAYH, the names of the Senator from Maine (Ms. COLLINS), the Senator from Montana (Mr. BAUCUS) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of amendment No. 2649 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3022

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of amendment No. 3022 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 3023

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 3023 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

#### STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. FRIST, Mr. MILLER, Mr.

DEWINE, Mr. VOINOVICH, Mr. ALLEN, Mr. CHAMBLISS, Mr. HAGEL, and Mr. DOMENICI):

S. 2290. A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; read the first time.

Mr. FRIST. Mr. President, I rise today to introduce with my colleague, the chairman of the Judiciary Committee, Mr. HATCH, a bill relating to an issue I talked a lot on the floor about this morning and yesterday, and that is the issue of asbestos litigation reform.

This is an issue I have taken great pain to outline over the last several weeks because it is an issue that has been addressed in committee. It is an issue we looked at, debated, talked about, and discussed in a bipartisan way since that point in time. It is now time to take some action to continue the progress that has been made today.

It is on asbestos—an asbestos injury resolution act. Today, we introduce a substitute bill to S. 1125, which is the Fairness in Asbestos Injury Resolution Act, which was reported out of the Judiciary Committee.

I thank my colleague, Chairman HATCH, for getting S. 1125 through the Judiciary Committee last July where, among many other successes, he led a major bipartisan solution in committee on the linchpin criteria issue of the medical criteria. S. 1125, as reported out of committee, provided a solid, reasonable solution to the asbestos litigation crisis. It had numerous consensus-building changes all made at the request of people both on the committee, Democrats, and also representatives of organized labor.

Since that time, there have been continued negotiations, and there have been more agreements in improving the bill as reported.

Special thanks go to a whole number of people, including Senator SPECTER and Judge Edward Becker who have both greatly improved and addressed the many issues on the administrative side of this bill.

I thank many Members. I thank the ranking minority member, Senator LEAHY, and the efforts of my Democratic colleagues and many stakeholders who have contributed greatly to the underlying bill with discussions and negotiations since that point in time. All have been very involved in improving the legislation.

I believe it is time—indeed, we are taking this action today—to further the effort of putting forward a constructive bill which addresses many of the concerns that people are talking about but now we will have it as a bill.

To postpone this any longer, even though people keep coming forward and saying, I have another idea, I don't think will bring this to conclusion, and thus we introduce the bill today.

To push toward a solution, we are providing a substitute bill even though we will not bring this bill to the floor until after the April recess.

We, of course, welcome further discussions—myself, the chairman, and others—with regard to how we might further improve the bill.

What has emerged from the collective efforts to date is a proposal that retains the key elements of the original S. 1125 and includes some of the crucial modifications that address concerns raised since its passage in committee by stakeholders.

The goal is a bipartisan agreement. With the goal of a bipartisan agreement in mind, a couple of the additional improvements I should mention—improvements of the bill that is being introduced versus the original S. 1125.

First, we provide more compensation to the victims.

Second, we revise the funding provisions to help protect the solvency of the fund while ensuring that any risk of shortfall rests on defendants and insurers and not the claimants.

Third, we incorporated a new administrative system agreed to by various stakeholders that is easier for claimants to use and can begin processing and paying claims more quickly.

I mention these three only to highlight a few of the significant changes that we believe improve S. 1125 as reported—changes that were made in good faith to address the concerns raised by Democrats and that are aimed at ensuring the program established under S. 1125 was the most fair to the victims, the intended beneficiaries.

S. 1125 represents an important piece of legislation. We must not forget the provisions of banning asbestos proposed by Senator MURRAY, revised and adopted by the Judiciary Committee.

The ban on asbestos is necessary to ensure that the dangers associated with asbestos exposure can be eliminated.

We also have a duty to our veterans, many of whom were exposed to substantial amounts of asbestos while serving our Nation during World War II and on ships, who have limited means of obtaining compensation for asbestos-related illnesses.

The revised S. 1125—which will now be S. 2290—represents an easier and a faster avenue for the men and women of the armed services to receive fair and just compensation while still keeping intact their veterans benefits.

Residents and workers of Libby, MT, also need this legislation to obtain full and adequate compensation. We must move forward on S. 2290.

There no doubt will be constructive proposals from Senators on both sides of the aisle to further refine and improve this bill. By introducing this bill today, we encourage that process. It is my hope the process will be useful and not result in any further delays or in postponing us addressing this true crisis today.

I believe a fair and a reasonable solution in a bill that can pass this body is possible. I believe this is another major step forward to accomplish that goal.

In closing, I thank the chairman of the Judiciary Committee who has been instrumental from day 1 on this bill and who has worked closely with both sides of the aisle in developing this product we introduce today.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am grateful for the distinguished majority leader's remarks and for the tremendous work he has done in helping to bring this bill to the floor at this time, without which I don't think we would be this far. I have to say this is one of the most important bills in our country at this time. I am very grateful to him, and grateful to all of those who worked on this bill.

I rise today, along with the distinguished majority leader, to introduce S. 2290, the Fairness in Asbestos Injury Resolution Act—the FAIR Act—of 2004. This is a substitute bill that Senators FRIST, DEWINE, VOINOVICH, MILLER, ALLEN, CHAMBLISS, HAGEL, DOMENICI, and I have spent a great deal of time developing. I particularly want to commend Senator SPECTER and Judge Becker of the Third Circuit Court of Appeals for their efforts in bringing interested parties together to discuss the further development of this legislation. We are pleased to include many agreements from that mediation process in this bill.

Let me start by noting that the United States Supreme Court has sadly but appropriately characterized the asbestos litigation system in our country as “an elephantine mass.” The Wall Street Journal aptly called it “a job-eating asbestos blob.”

Without question, we face a crisis of epidemic proportions.

First, our asbestos system is inequitable. In our lottery-like system, juries award enormous damages to a special few, many of whom are not impaired at all and have never suffered a day of sickness. In other words, our system makes millionaires out of people who are not sick and who may never become sick. Meanwhile, people who are truly sick from asbestos receive little or nothing.

Let me illustrate this point. In a recent Mississippi case, six plaintiffs who were not sick—not one day of sickness—were awarded a total of \$150 million. The plaintiffs did not claim to have ever missed a day of work because of asbestos injury. They did not claim any medical expenses related to asbestos, and they did not have asbestos-related physical impairment. Meanwhile, truly sick asbestos victims under the Johns-Manville bankruptcy trust receive a mere 5 cents on the dollar. A jackpot justice system like the one we have is unfair, and it is unjust. That is happening all over because about 10 percent of the plaintiffs bar, the personal injury lawyers, I think to the irritation of the 90 percent, are forum shopping these bills in jurisdictions where they can get big verdicts for bad cases. Frankly, what is happening

today on asbestos compensation should not take place in this great country of America.

In addition to the gross inequities with respect to who gets compensated, the system is so overwhelmed by claims that truly sick people can wait years and die before even getting their day in court.

The fact is, our courts are simply unable to handle the volume of asbestos litigation. Unless Congress acts to end the delays and the distortions caused by these voracious personal injury lawyers—as I say, only about 10 percent, maybe less than that, of the personal injury bar—our system will remain broken.

Another unacceptable feature of our current system is that most of the money that should be going to compensate the truly injured, guess where it goes? It goes into the pockets of the lawyers. One actuarial firm estimates personal injury lawyers bringing these cases will siphon more than \$60 billion out of asbestos litigation before it is over, and that is a conservative estimate.

As unfair as the system is today, the future is even more grim. Excessive damage awards, along with the transaction costs associated with the lawsuits, deplete the financial resources of the defendant companies and send more and more of them into bankruptcy. Many of these businesses are union businesses. These union workers lose their jobs because we have not resolved this problem. As legal and financial resources are exhausted by those who are not sick, those who truly are afflicted with asbestos-caused diseases are less and less likely to be compensated.

According to the Rand Institute for Civil Justice, a very prestigious institute, “about two thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill.”

Our asbestos system does not only burden unfairness on the truly sick; it is also devastating to our economy. According to Rand, the number of claims continues to rise, with over 600,000 claims already filed. Typically, claimants filed against dozens of defendants; more than 8,500 companies have been named as defendants in asbestos litigation. With only a handful of the original asbestos manufacturing companies, the ones that are really liable, remaining today, new industries are being targeted for lawsuits.

For instance, it has been reported that the big three automakers “are defending approximately 15,000 cases based on claims alleging injury due to exposure to asbestos in brakes and clutches.”

Even nonmanufacturers, businesses that just supply asbestos, are now facing claims. These include plumbing, heating, and automotive supply stores. As funds from asbestos companies continue to dry up, we can expect the enterprising personal injury bar to continue to target companies that have

tangential relations to the claims and little or no real culpability.

One company is one of the large insurance companies that has never insured for asbestos, never had anything to do with asbestos. Basically it has never had a claim for asbestos up until recently, but they have been dragged into 60,000 cases because they were one of the early medical teams that came to the conclusion that mesothelioma comes from asbestos exposure. They did medical evaluations that concluded and helped to make the cases for those who truly are suffering, people who now are getting five cents on a dollar. They have been dragged into 60,000 cases that they should not have been dragged into. They will win every one of those cases, no question about it. That last case they tried—and they did win it, by the way—cost \$2 million just in defense fees alone. Times that by 60,000 and you get an idea of the nightmare that insurance company is going through all because of voracious—I think in some cases, dishonest, small percentage of the personal injury bar—personal injury lawyers who are bringing these cases.

Now, as funds from the asbestos companies continue to dry up, we can expect the enterprising personal injury bar to continue to target companies that have tangential relations to the claims but little or no real culpability or liability. Rest assured, without congressional action, the problem will not go away. Last year, a record 100,000 asbestos claims were filed. At least 70 companies have already gone into bankruptcy due to asbestos liability. By the way, many of those companies were union companies. Many union members lost their jobs.

Does anyone wonder why manufacturing may be going down in America? Blame those who are always on the side of the personal injury lawyers, just to mention one corruption of the law.

Of course, each bankruptcy does bring with it lost jobs, lost pensions, and weaker financial markets. The nonpartisan American Academy of Actuaries reports “bankruptcies in corporate asbestos defendants have affected 47 states resulting in the loss of 52,000 to 60,000 jobs. With each displaced worker losing 25,000 to 50,000 in wage and 25 percent of their 401(k).” In other words, their pensions.

Rand estimates this litigation will eventually result in a staggering 430,000 lost jobs. Where are our colleagues on the other side when it comes to jobs? Here is a way of saving 430,000 manufacturing jobs and most of them will vote against this bill. Why? I will get into that in a few minutes.

The Supreme Court repeatedly called upon Congress to take action, but years have slipped by and we have not resolved the problem. Unless we act now, three things are certain. One, there won't be enough money to compensate people who are truly sick from asbestos exposure; two, hundreds of

thousands of working Americans are going to lose their jobs and their pensions as these businesses go bankrupt; and three, personal injury lawyers will continue to get richer and richer.

I am not against them getting rich when they bring honest cases. I am not against them doing well when they earn the money. But this is like rolling off the log the way the current tort system is so broken and out of whack.

We need a comprehensive solution that is fair and we need it now. That is why we are introducing the Fairness Asbestos Injury Resolution Act of 2004, called the FAIR Act, the Hatch-Frist-Miller Act. I am pleased we have been able to make changes in this bill from the bill we reported out of the Judiciary Committee. This bill will address the concerns that have been raised. This legislation offers a fair and efficient solution. The bill provides a clear net monetary gain for legitimate victims with faster and more certain compensation. In addition, the legislation is important to our economy by providing certainty to American businesses, retirement savings, and it will preserve jobs, as well.

The Americans injured by asbestos have waited long enough for a fair system of fair compensation. Many of them would not have to wait any longer once this bill passes.

Nor can American workers afford to wait around while they lose their jobs and their pensions and while they die from mesothelioma and other asbestos-related diseases. The only people who can afford to wait are those who profit from the sick and from the hard-working Americans.

S. 1125, the Fairness and Asbestos Injury Act, the FAIR Act, as reported out of the Senate Judiciary Committee, represented an unprecedented advance on a workable solution to the complex and difficult issues that have stalled previous attempts at similar legislation. Landmark agreements were reached on asbestos injury compensation cases such as medical criteria, and over 50 consensus-building changes were adopted overall. Nonetheless, a number of issues were left open for further discussion and additional concerns were raised that were not satisfactorily addressed by the committee. We did our best but we needed to make some of these changes, so we have.

Since the bill was recorded out of committee, various State courts and members of both parties have continued working.

The Hatch-Frist-Miller substitute bill being introduced reflects agreements on some of these difficult issues reached during these negotiations and attempts to address a number of concerns that have been raised but have not yet been subject to widespread agreement. In particular, the Hatch-Frist-Miller bill raises claims values. It streamlines the administrative system to be up and running quickly. It increases liquidity and upfront funding for faster compensation of claims, and

if a fund runs out of money, that risk will be on the defendants and the insurers, not on the claimants.

These are some of the highlights of the numerous changes made to make a fairer system for claimants. I fully expect that passing this legislation is going to be an uphill battle due to the strong grip of the powerful personal injury bar. Personal injury lawyers, by the way, have already been well compensated with respect to asbestos litigation having already taken an estimated \$20 billion for themselves so far in legal fees.

I have faith in the fairness and common sense of Americans. I believe they can see through the self-interest of personal injury lawyers who want to maintain a system that unduly benefits them. Americans will understand that without reform true victims of asbestos exposure, as well as businesses, employees and pensioners will pay the price.

I look forward to debating and further refining this important bill when we return from the April recess. This bill, as most bills, is not perfect. No piece of legislation is without some imperfection in the eyes of someone or some special interest. But if there is ever a case for not letting the perfect become the enemy of the good—and the very good, at that—it is this asbestos bill.

I am aware some will argue strongly this bill is too big, it is too costly. I am also aware some will argue this bill is too small and does not go far enough. But the truth is, if either of these perspectives fail, we will be left with the undesirable status quo. Unless we adopt something very close to what we are proposing, the victims of asbestos and those being asked to provide a fair level of compensation will continue to suffer—probably without anybody benefiting except the personal injury bar, and then a very small percentage of them.

When we take up this bill in the next few weeks, let us strive to achieve a proper balance between the interests of those afflicted and those individuals and firms who are called upon to provide the compensation for this important program.

Some say—I think somewhat cynically—many of our colleagues on the other side are not going to vote for this bill because no amount of money is going to make them satisfied because two of their major constituencies are against the bill, and have been, so far, against any bill. Some have said they are afraid the personal injury bar will not put up at least \$50 million for JOHN KERRY in this election if they vote for this bill. Others are saying without that money, they might not be able to elect JOHN KERRY President. I think that is a pretty cynical approach, of course. But if it is true, or there is any truth to it, then it is pretty pathetic that they would let these hundreds of thousands of people go down the drain without just compensation, which we have in this bill, because of politics.

By the way, the other reason is because the AFL-CIO has not signed onto this bill. That is not quite true. There are a few unions that are for this bill. They know it is important. They know they are going to lose jobs, they are going to lose pensions, they are going to lose opportunities if these companies keep going bankrupt. About 70,000 jobs, it is estimated now, have been lost.

These are two very large constituencies of the Democratic Party. I cannot blame Democrats for at least considering that they are concerned about this bill. But I think the union leaders know this is an important bill, and they know it is a good bill. Frankly, they do not want to have to make that decision during an election year.

Well, I do not care whether it is an election year or nonelection year; we cannot wait any longer. If we do not pass this bill and do the best we can do for these workers and for these companies, and for all concerned, in the way we have, these companies are going to have to come up with this whopping amount of money in this bill. They are the ones who are going to have to do it.

I saw yesterday in the Wall Street Journal they thought the Government was going to have to come up with lots of money. Well, some actually make a pretty good argument the Government should. We have made it very clear the Government is not going to. This is not going to be part of our deficit burden we have in this country. Let some make their effective arguments the Government knew asbestos was harmful, yet imposed it by regulation in our ships and in so many other ways. Be that as it may, we are not imposing this on Government. These companies are going to have to come up with this money. It has been a monumental effort by those of us who have fought this through to bring together enough money to be able—according to those who analyze the economics of this, those who are honest and decent in analyzing it—to pay the claims we have under the medical criteria in this bill. And the medical criteria happen to be fair as well.

Let me close. First of all, I hope that is not the reason why our colleagues vote against this bill. Unfortunately, I believe that probably is the reason—those two reasons. There may be others as well, but they are not justified after all the hard work that has been done by both Democrats and Republicans in bringing the bill this far.

Let me close by thanking the majority leader, Senator FRIST, for the work he has done, and especially thank Senator SPECTER for his Herculean efforts in bringing the bill to its present form, and Judge Becker, for whom I have the utmost of respect and affection. I urge my colleagues to support this fair solution to a broken system that has languished far too long.

Mr. President, I yield the floor.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 2291. A bill to redesignate the facility of the United States Postal Service located at 14-24 Abbott Road in Fair Lawn, New Jersey, as the “Mary Ann Collura Post Office Building”; to the Committee on Governmental Affairs.

Mr. CORZINE. Mr. President, I am honored to introduce a bill on behalf of Senator FRANK LAUTENBERG and myself to authorize the renaming of the main post office in Fair Lawn, NJ as the Mary Ann Collura Post Office.

Mary Ann Collura was the first female police officer in Fair Lawn, where she served the people in her community as an outstanding officer and role model for eighteen years. On April 17, 2003, Officer Collura was fatally shot while attempting to arrest three men after a car chase. She was the first Fair Lawn police officer ever killed in the line of duty.

The idea for naming the Fair Lawn post office in honor of Officer Collura came from a Fair Lawn high school student, which is indicative of the admiration the people of Fair Lawn have for her. She was known for her courage, kindness, and genuine caring for others. Officer Collura was also a pioneer in Fair Lawn. She started a program to protect trick-or-treaters on Halloween by giving them glow sticks, which has expanded and is now a countywide program.

Senator LAUTENBERG and I are proud to be joining Representative STEVEN ROTHMAN and the entire New Jersey congressional delegation in the effort to rename the Fair Lawn post office in honor of Mary Ann Collura. By naming the main post office in town after such a brave woman, we pay her the respect she earned, and memorialize her in a way befitting a person of her stature. She is a true hero and will be missed.

I ask by unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. REDESIGNATION.

The facility of the United States Postal Service located at 14-24 Abbott Road in Fair Lawn, New Jersey, and known as the Fair Lawn Main Post Office, shall be known and designated as the “Mary Ann Collura Post Office Building”.

#### SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Mary Ann Collura Post Office Building”.

By Mr. VOINOVICH:

S. 2292. A bill to require a report on acts of anti-Semitism around the world; to the Committee on Foreign Relations.

Mr. VOINOVICH. Madam President, during the last several years, I have been deeply concerned with the rise of

antisemitism in countries throughout the world, including countries that have traditionally been among the world's strongest democracies.

Today, as Jewish people across the world celebrate Passover, a festival of freedom and redemption, I rise to again call attention to growing antisemitism and to urge a renewed effort to combat this serious problem, both at home and abroad.

Although some of my colleagues might not be aware, I have had the opportunity to visit the State of Israel seven times, as mayor of Cleveland, Governor of Ohio, and as a Member of the Senate. I will always remember visiting Yad Vashem on my first visit in 1980, and again on several other visits, and the Diaspora Museum in Tel Aviv in 1982. That experience truly brought home to me the horrors of the Holocaust and the role antisemitism played in leading to the Holocaust.

I vowed I would do everything in my power to make sure it would not happen again. Frankly, I never thought during my lifetime I would have to try to keep that vow. Unfortunately, antisemitism's deadly, ugly head is rising again. Working with other groups, I am determined to do everything I can do to stop it. There must be zero tolerance of antisemitism.

In May of 2002, following a disturbing number of antisemitic incidents in Europe, I joined members of the Helsinki Commission in a hearing to examine the rise of antisemitic violence in Europe. I was shocked by the reports I heard. Now, nearly 2 years later, the news is not much better. The first 3 months of 2004 have seen numerous acts of antisemitism abroad.

For example, in Toulon, France, on March 23, 2004, a Jewish synagogue and community center were set on fire. In St. Petersburg, Russia, on February 15, 2004, vandals desecrated approximately 50 gravestones in a Jewish cemetery, painting them with swastikas and antisemitic graffiti.

Antisemitic incidents are not unique to Europe. In Australia, on January 5 of this year, antisemitic slogans and symbols were burned into the lawns of Tasmania's Parliament House.

In Toronto, Canada, over the weekend of March 19, 2004, vandals attacked a Jewish school, cemetery, and area synagogues, painting swastikas and antisemitic slogans on the walls of the synagogue and on residential property in a predominantly Jewish neighborhood nearby.

This alarming trend has not gone unnoticed. The high number of antisemitic incidents in Europe and other parts of the world has caused the United States, working with our allies and international organizations such as the Organization for Security and Cooperation in Europe, to take action.

Efforts to highlight growing antisemitism began in earnest following the Helsinki Commission hearing in May 2002, to which I have just referred. During that hearing, I called on the

OSCE to conduct a separate session on antisemitism during the annual meeting of the OSCE parliamentary assembly in Berlin in July 2002. I was pleased this did in fact take place. Delegates to this meeting also unanimously passed a resolution calling attention to the dangers of antisemitism, which I cosponsored. I was honored to be in Berlin for the meeting, joining Representative CHRIS SMITH, who serves as chairman of the Helsinki Commission and continues to be a great leader on this issue. We are very fortunate to have CHRIS SMITH heading the Helsinki Commission in the House of Representatives. He is doing a wonderful job. Work continued upon our return with letters to the President and Secretary of State, underscoring the importance of a strong U.S. commitment to the fight against global antisemitism.

Last June, former New York City Mayor Rudy Giuliani led the U.S. delegation to the first conference of the OSCE dedicated solely to the issue of antisemitism.

The conference took place in Vienna, bringing together parliamentarians, officials, and private citizens from all 55 OSCE participating states. This conference was the product of much hard work and would not have been a reality without the strong support of Secretary of State Colin Powell, Under Secretary of State for Political Affairs Mark Grossman, and our Ambassador to the OSCE, Stephan Minikes. Stephan Minikes, by the way, I think is the most outstanding ambassador the United States has sent to the OSCE in a very long time.

The Vienna conference was a step in the right direction. I believe Mayor Giuliani best captured the significance of the event when he remarked:

The conference represents a critical first step for Europeans who have too frequently dismissed anti-Semitic violence as routine assaults and vandalism. Antisemitism is anything but routine. When people attack Jews, vandalize their graves, characterize them in inhumane ways, and make salacious statements in parliaments or to the press, they are attacking the defining values of our societies and our international institutions.

While the Vienna conference provided a solid foundation, followup to the meeting is absolutely essential. As such, the OSCE will convene a second conference on antisemitism in Berlin later this month. I believe this meeting is urgently needed, and I am pleased Secretary Powell has asked me to serve as a member of the U.S. delegation to this critical gathering.

Again, this meeting in Vienna would not have happened without the strong support of our Secretary of State and his team at the State Department.

In Berlin, our goal is to ensure we move beyond rhetoric and move forward to institutionalize the fight against antisemitism in the OSCE. We hope to put in place an action plan to formalize a process to identify, monitor, and measure efforts to combat antisemitism in each of the 55 OSCE participating states, including the United States.

Too often, as the Presiding Officer knows, there is a lot of talk at these meetings but no action. If we are to be successful in our effort, we must establish a commitment to action—action that can be monitored. This is the message I have continued to stress.

Last July, I wrote to those individuals who joined Mayor Giuliani as members of the U.S. delegation to the Vienna conference, including Abraham Foxman of the Anti-Defamation League, Mike Levin of the National Conference on Soviet Jewry, David Harris of the American Jewish Committee, and Dave Mariaschin of B'nai B'rith, asking them for recommendations for action, things that can be done to encourage tangible steps rather than just dialog. They came back to me with recommendations for the Berlin conference which I then sent to Secretary of State Colin Powell.

Madam President, I ask unanimous consent that my letter to Secretary Powell, including the proposed agenda for the Berlin conference, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,  
Washington, DC, February 6, 2004.

Hon. COLIN L. POWELL,  
Secretary of State, U.S. Department of State,  
Washington, DC.

DEAR SECRETARY POWELL: I would like to take this opportunity to thank you for your continued leadership on efforts to combat anti-Semitism abroad. The United States has played an important role in highlighting the need to take action on this issue, both through our bilateral relationships and interaction with international organizations such as the Organization for Security and Cooperation in Europe (OSCE).

Significant progress has been made during the last year on efforts to raise awareness of the rise in anti-Semitic violence in Europe and other parts of the world. The Vienna Conference on Anti-Semitism convened by the OSCE last June was an important step in the right direction; however, I believe that the follow-up to this meeting is critical. As such, I was pleased that you, and others, expressed support for a second meeting on anti-Semitism during the OSCE Ministerial in Maastricht.

As the United States prepares for this follow-up meeting, scheduled to take place in Berlin this April, I believe that we should work together to establish clear objectives and outline a solid agenda. It is in this spirit that I would like to share with you the attached recommendations for action items that have been outlined by a number of non-governmental organizations with a long-standing interest in the issue of anti-Semitism. I hope that you find them useful as planning for the Berlin conference continues.

Again, thank you for ongoing work to raise awareness of this serious problem. I look forward to working with you in the months leading to this important event.

Sincerely,

GEORGE V. VOINOVICH,  
United States Senator.

JANUARY 21, 2004.

Hon. GEORGE V. VOINOVICH,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR VOINOVICH: On behalf of our organizations, we commend you for your

leadership in the domestic and global fight against anti-Semitism, particularly your role in gaining the attention and commitment of European governments. We are writing to respond to your request for actionable steps the United States can take to facilitate concrete responses to anti-Semitism in the OSCE region.

In anticipation of the upcoming April 2004 OSCE anti-Semitism conference in Berlin, we have compiled the following points for your consideration. We also take this opportunity to reiterate the important role that you and other Senators are playing in this process, and the indispensable diplomatic campaign by the U.S. Government.

#### BERLIN OSCE CONFERENCE

1. Program should include plenary speeches and workshops in the areas of:

Governmental/Parliamentary action;  
Law Enforcement: monitoring, hate crimes response, anti-bias education;  
Education: Making anti-bias education a component of education from an early age;

The role of the media in setting a tone for tolerance in the public debate.

Following the opening plenary, multiple concurrent workshops would enable the program to cover more ground and make the two days as productive as possible for delegation members from law enforcement, educational and other areas.

2. Governments should be encouraged to:  
Reflect the seriousness and sense of urgency with which the OSCE views the problem by appointing high-level government delegations;

Appoint delegations which also include officials from agencies outside the foreign ministry who are poised to play a role in implementing relevant programs against anti-Semitism (e.g., interior, education, justice, police, parliament), which should also be a consideration in assembling the U.S. delegation;

Include non-governmental leaders in their national delegations, reflecting interdenominational, human rights and Jewish community perspectives;

Utilize the conference as a forum to bring to light best practices from their country where relevant, including governmental as well as community examples;

Report on progress toward implementing Holocaust-related and other tolerance education, with reference to the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research;

Publicly repudiate incitement and other efforts to turn political grievances into appeals to ethnic hatred, anti-Semitism and the denial of Holocaust history;

Counter Middle Eastern sources of anti-Semitism and other hate material.

3. Preparation and Follow-Up:

In Berlin, announce the establishment of ministerial working groups or task forces in the areas such as education, monitoring, and law enforcement. These tracks would work together to monitor implementation of recommendations and convene follow-up meetings of experts to assess progress on implementation and exchange strategies. The United States, Germany and the Bulgarian OSCE Chairmanship should communicate now with counterparts to interest key players and recruit ministers in advance who would be willing in Berlin to announce their involvement and assume specific responsibilities (e.g., German Interior Minister Otto Schily, French Minister of Interior Nicolas Sarkozy and Education Minister Luc Ferry).

Craft an agenda for the working groups, and establish ongoing interface with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), including the annual OSCE Human Dimension Implementation Meeting (HDIM) in Warsaw.



4. A joint declaration and program of action against anti-Semitism should be developed in advance consultations and unveiled in Berlin by the consenting governments.

#### OSCE MONITORING OF ANTI-SEMITISM

ODIHR should craft a data collection model. A visit to the United States and other relevant OSCE countries by Ambassador Strohal and his team would enable vital consultations with hate-crime monitoring experts in and out of government.

In addition to collecting and analyzing data, ODIHR needs to implement its new mandate by working with OSCE member states to promote in-country programs and legislation. ODIHR should also begin evaluating and developing recommended standards for reporting and classifying of incidents.

OSCE law-enforcement programs should include an anti-bias unit where possible.

A session in the October HDIM should be devoted to a status report on this and related initiatives.

As you know, Senator, our organizations are in close coordination with the United States Government, with each other and with other governments and interested parties to maximize the possibilities for Berlin and beyond. We appreciate your initiative in soliciting our input on this timely and vital matter, and look forward to continuing our work with you and your Senate colleagues.

Sincerely,

MARK B. LEVIN,

*Executive Director,  
NCSJ: Advocates on  
behalf of Jews in  
Russia, Ukraine, the  
Baltic States & Eur-  
asia*

DANIEL S. MARIASCHIN,  
*Executive Vice Presi-  
dent, B'nai B'rith  
International*

MALCOLM HOENLEIN,  
*Executive Vice Chair-  
man, Conference of  
Presidents of Major  
American Jewish Or-  
ganizations*

ABRAHAM H. FOXMAN,  
*National Director,  
Anti-Defamation  
League*

HANNAH ROSENTHAL,  
*Executive Director,  
Jewish Council for  
Public Affairs*

DAVID A. HARRIS,  
*Executive Director,  
American Jewish  
Committee.*

Mr. VOINOVICH. Madam President, I am pleased the State Department has taken these suggestions into consideration in working to prepare the agenda for the Berlin conference. There has been a great deal of effort to ensure this conference meets my expectations and others', and it is my sincere hope this meeting will help move toward the goal of zero tolerance for antisemitism in the world today. While I believe we must do all we can to encourage our allies and partners abroad, as well as our international organizations, such as the OSCE, the United Nations, and the EU to combat antisemitism, it is important we redouble our efforts at home to call attention to this problem.

Tomorrow the Senate Foreign Relations Committee will conduct a hearing to examine antisemitism in Eu-

rope. This continues discussion on the issue following a hearing that took place last October. While this is significant, we can and we ought to do more.

Today I introduce legislation calling attention to the growing problem of antisemitism abroad. This bill, called the Global Antisemitism Review Act of 2004, urges the United States to continue to strongly support efforts to highlight antisemitism through bilateral relationships and interaction with international organizations, such as the Organization for Security and Co-operation in Europe.

Further, the legislation requires the Secretary of State to submit to Congress an annual report on acts of antisemitism worldwide. The report will include a description of the following for each foreign country; in other words, we are going to have a report on each one of the 55 members of the OSCE.

First, a description of physical violence against or harassment of Jewish people or community institutions, such as schools, synagogues, or cemeteries, that occurred in that country; second, the response of the government of that country to such attacks; third, actions by the government of that country to enact and enforce laws relating to the protection of the rights to religious freedom with respect to Jewish people; and finally, the efforts made by that government to promote antibias and tolerance education.

The last point I think is so important. If we are truly to be successful, it is imperative we work to promote tolerance and bring about a change in the hearts and minds of those people responsible for acts of antisemitism and other hate crimes. We can do something about their mouths, their hands, and their feet, but the real challenge for us is to change their minds and their hearts.

Last year, both the Senate and the House of Representatives passed resolutions calling on the State Department to thoroughly document acts of antisemitism worldwide. This bill would take it one step further. I believe it is essential, and I urge my colleagues to join me in supporting swift passage of this legislation which will underscore the high priority Congress and the U.S. Government have given to zero tolerance of global antisemitism.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2292

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Anti-Semitism Review Act of 2004".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Acts of anti-Semitism in countries throughout the world, including some of the

world's strongest democracies, have increased significantly in frequency and scope over the last several years.

(2) During the first 3 months of 2004, there were numerous instances of anti-Semitic violence around the world, including the following incidents:

(A) In Australia on January 5, 2004, poison was used to ignite, and burn anti-Semitic slogans into, the lawns of the Parliament House in the state of Tasmania.

(B) In St. Petersburg, Russia, on February 15, 2004, vandals desecrated approximately 50 gravestones in a Jewish cemetery, painting the stones with swastikas and anti-Semitic graffiti.

(C) In Toronto, Canada, over the weekend of March 19 through March 21, 2004, vandals attacked a Jewish school, a Jewish cemetery, and area synagogues, painting swastikas and anti-Semitic slogans on the walls of a synagogue and on residential property in a nearby, predominantly Jewish, neighborhood.

(D) In Toulon, France, on March 23, 2004, a Jewish synagogue and community center were set on fire.

(3) Anti-Semitism in old and new forms is also increasingly emanating from the Arab and Muslim world on a sustained basis, including through books published by government-owned publishing houses in Egypt and other Arab countries.

(4) In November 2002, state-run television in Egypt broadcast the anti-Semitic series entitled "Horseman Without a Horse," which is based upon the fictitious conspiracy theory known as the Protocols of the Elders of Zion. The Protocols have been used throughout the last century by despots such as Adolf Hitler to justify violence against Jews.

(5) In November 2003, Arab television featured an anti-Semitic series, entitled "Ash-Shatat" (or "The Diaspora"), which depicts Jewish people hatching a plot for Jewish control of the world.

(6) The sharp rise in anti-Semitic violence has caused international organizations such as the Organization for Security and Co-operation in Europe (OSCE) to elevate, and bring renewed focus to, the issue, including the convening by the OSCE in June 2003 of a conference in Vienna dedicated solely to the issue of anti-Semitism.

(7) The OSCE will again convene a conference dedicated to addressing the problem of anti-Semitism on April 28-29, 2004, in Berlin, with the United States delegation to be led by former Mayor of New York City Ed Koch.

(8) The United States Government has strongly supported efforts to address anti-Semitism through bilateral relationships and interaction with international organizations such as the OSCE, the European Union, and the United Nations.

(9) Congress has consistently supported efforts to address the rise in anti-Semitic violence. During the 107th Congress, both the Senate and the House of Representatives passed resolutions expressing strong concern with the sharp escalation of anti-Semitic violence in Europe and calling on the Department of State to thoroughly document the phenomenon.

#### SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the United States Government should continue to strongly support efforts to combat anti-Semitism worldwide through bilateral relationships and interaction with international organizations such as the OSCE; and

(2) the Department of State should thoroughly document acts of anti-Semitism that occur around the world.

**SEC. 4. REPORT.**

Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on acts of anti-Semitism around the world, including a description of—

(1) acts of physical violence against, or harassment of, Jewish people, and acts of violence against, or vandalism of, Jewish community institutions, such as schools, synagogues, or cemeteries, that occurred in each country;

(2) the responses of the governments of those countries to such actions;

(3) the actions taken by such governments to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people; and

(4) the efforts by such governments to promote anti-bias and tolerance education.

By Mr. DOMENICI:

S. 2294. A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI. Mr. President, today I rise to introduce an uncontroversial piece of legislation that I hope will receive prompt committee action and will make its way quickly to the President's desk for his signature.

I would first like to familiarize the Senate with the important mission and related work of the Chihuahuan Desert Nature Park in Las Cruces, NM. The Chihuahuan Desert is the largest desert in North America and contains a great diversity of unique plant and animal species. The ecosystem makes up an indispensable part of southwest's treasured ecological diversity. As such, it is important that we teach our young ones an appreciation for New Mexico's biological diversity and impart upon them the value of this ecological treasure.

The Chihuahuan Desert Nature Park is a non-profit institution that has spent the past six years providing hands-on science education to K-12th graders. To achieve this mission, the Nature Park provides classroom presentation, field trips, schoolyard ecology projects and teacher work shops. The Nature Park serves more than 11,000 students and 600 teachers annually. This instruction will enable our future leaders to make informed decisions about how best to manage these valuable resources. I commend those at the Nature Park for taking the initiative to create and administer a wonderfully successful program that has been so beneficial to the surrounding community.

The Chihuahuan Desert Nature Park was granted a 1,000 acre easement in 1998 at the southern boundary of USDA-Agriculture Research Service (USDA-ARS) property just north of Las Cruces, NM. This easement will expire soon. It is important that we provide them a permanent location so that they are able to continue their valuable mission.

The bill I introduce today would transfer an insignificant amount of

land: 1,000 of 193,000 USDA acres to the Desert Nature Park so that they may continue their important work. The USDA-ARS has approved the land transfer, noting the critically important mission of the Desert Park. I have no doubt that senators on both sides of the aisle will recognize the importance of this land transfer.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Jornada Experimental Range Transfer Act of 2004".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) BOARD.—The term "Board" means the Chihuahuan Desert Nature Park Board.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 3. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK BOARD.**

(a) CONVEYANCE.—The Secretary may convey to the Board, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) consists of not more than 1000 acres of land selected by the Secretary—

(1) that is located in the Jornada Experimental Range in the State of New Mexico; and

(2) that is subject to an easement granted by the Agricultural Research Service to the Board.

(c) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the condition that the Board pay—  
(A) the cost of any surveys of the land; and  
(B) any other costs relating to the conveyance;

(2) any rights-of-way to the land reserved by the Secretary;

(3) a covenant or restriction in the deed to the land described in subsection (b) requiring that—

(A) the land may be used only for educational purposes;

(B) if the land is no longer used for the purposes described in subparagraph (A), the land shall, at the discretion of the Secretary, revert to the United States; and

(C) if the land is determined by the Secretary to be environmentally contaminated under subsection (d)(2)(A), the Board shall remediate the contamination; and

(4) any other terms and conditions that the Secretary determines to be appropriate.

(d) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (c)(3)(A)—

(1) the land shall, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary shall—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(B) if the Secretary determines that the land is environmentally contaminated, the Board or any other person responsible for the contamination shall remediate the contamination.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. DORGAN, Mr. SCHUMER, Mrs. CLINTON, and Mrs. BOXER):

S. 2295. A bill to authorize appropriations for the Homeland Security Department's Directorate of Science and Technology, establish a program for the use of advanced technology to meet homeland security needs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by a number of my colleagues representing southern and northern border States, including Senators KYL, DORGAN, SCHUMER, CLINTON, and BOXER in introducing the Border Security and Technology Integration Act of 2004. This bill was developed together with my fellow Arizonan, Congressman KOLBE, who has introduced the House companion to this bill. It is designed to identify and address gaps in border infrastructure and enforcement and promote our Nation's security efforts.

As estimated one million people enter this country illegally every year. Last year, more than 300 people died illegally crossing the border separating the United States and Mexico—and over 200 of those deaths occurred in the Arizona desert. Although the vast majority of these individuals do not intend to harm our Nation, we must recognize our vulnerability to security threats and take action to address identified safety and security lapses. Improving enforcement along our porous borders, as proposed in this legislation, would be one very important step in our efforts to promote national security.

While I commend the Department of Homeland Security (DHS) for its many actions taken over the past year, much remains to be done to secure our Nation. We do not have sufficient control of our Nation's borders, and that fact represents a serious threat to our Nation's security. The solution is two part. We must couple comprehensive immigration reform with improvements in infrastructure and enforcement in the border region—one without the other will never solve this problem. Last summer I introduced comprehensive immigration reform legislation to address our broken immigration system. The Border Security and Technology Integration Act of 2004 would address the other half of the border security equation—improving technology, infrastructure, and coordination in the border region.

The Border Security and Technology Integration Act is intended to improve security along the vast expanses of land between ports of entry along our Nation's northern and southern borders. It would direct the Department of Homeland Security (DHS) to conduct comprehensive vulnerability and threat assessments throughout Bureau of Customs and Border Protection field offices to determine what technology and equipment are needed to improve security. The bill would establish two

new border technology pilot programs, one to address aerial surveillance and another to address ground surveillance, that together, will comprehensively evaluate technologies that can improve security along the borders.

With jurisdiction along the border divided among a number of Federal, State, local, and tribal government agencies, coordination and communication between entities too often falls short. To address this problem, this bill would direct DHS to develop plans to improve coordination, communications integration, and information sharing among the various governmental agencies.

The bill also would provide additional direction to the Science and Technology (S&T) Directorate within the DHS. The S&T Directorate is responsible for coordinating research, development, testing, and evaluation activities for all elements of DHS. It also has distinct program areas dedicated to addressing each major category of weapons of mass destruction, such as chemical, biological, radiological, nuclear, and high-explosives. In fiscal year 2004, DHS received \$1.04 billion in research and development (R&D) funding, with \$874 million appropriated to the S&T Directorate.

The Border Security and Technology Integration Act is intended to improve the coordination and integration of R&D needs and priorities managed by the S&T Directorate. Although most of Department's R&D activities are within the S&T Directorate, other directorates within DHS also include an R&D component. The lack of consolidation of R&D activities raises concern about the potential for duplication and misuse of R&D funds. The FY 2005 budget request recognizes the need to consolidate research funds, and to assist with this effort, this bill would direct DHS to identify all R&D activities outside of the S&T Directorate and consolidate these activities within the Directorate to minimize waste and duplication of efforts.

Technology transfer, which is defined as "a process by which technology developed in one organization, in one area, or for one purpose is applied in another organization, in another area, or for another purpose" is an essential component of the new S&T Directorate. This legislation will direct the Undersecretary of the S&T Directorate to establish a Technology Transfer and Licensing Office to facilitate the transfer of technologies into and out of the S&T Directorate and to handle licensing activities for the S&T Directorate. It also would direct DHS to conduct a study to determine the feasibility of establishing a nonprofit government-sponsored enterprise for investing in private sector enterprises that develop new technologies that show promise for homeland security applications.

Again, border security and immigration reform represent national security issues for all Americans and matters of life and death for many living along

the border. Since January, over 2,000 suspected smugglers and well over 155,000 undocumented immigrants have been apprehended across Arizona.

The Federal Government's inability to adequately secure our borders perpetuates a state of lawlessness, shifting substantial financial and social burdens to residents of the border region. Violent crimes in Phoenix, alone, have risen 400 percent over the past year, largely due to human smugglers. Across the Nation, hospitals spend well over \$200 million a year providing uncompensated care to undocumented immigrants, forcing many hospitals along the border to close their doors or dramatically reduce services. Cash-strapped local law enforcement officials spend millions of dollars covering the cost of incarcerating undocumented immigrants. Frustrated by this situation, some residents have taken the law into their own hands, forming vigilante groups to patrol the border.

While DHS has recently launched several initiatives, including Operation ICE Storm and the Arizona Border Control Initiative, which I hope will substantially improve security in the Arizona border region, we must do more. Manpower alone can never secure the border. We need a comprehensive border-wide security approach that involves people, infrastructure, and technology.

I urge my colleagues to support our efforts to address border security in a reasoned and responsible manner. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2295

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Infrastructure and Technology Integration Act of 2004".

### TITLE I—BORDER SECURITY

#### SEC. 101. VULNERABILITY AND THREAT ASSESSMENT.

(a) STUDY.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico, including an assessment of the optimal Border Patrol strength for those borders. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) REPORT TO CONGRESS.—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2005 through 2010 to carry out any such recommendations from the first study conducted under subsection (a).

#### SEC. 102. DISCRETIONARY ACCOUNTS FOR FIELD OFFICES.

(a) IN GENERAL.—The Secretary of Homeland Security may provide up to \$15,000 per fiscal year to any field office of the Bureau of Customs and Border Protection to be used by that office in developing innovative techniques and technologies to carry out its duties with respect to the inspection of articles and individuals entering the United States. Financial assistance provided to a field office under this subsection shall be in addition to any amounts made available to that office under any other provision of law.

(b) APPLICATIONS.—To receive funding provided under subsection (a) a field office shall submit an application to the Secretary, at such time and in such manner as the Secretary may require, describing the purpose for which the additional funding is requested in sufficient detail to permit the Secretary to determine whether the additional funding is necessary and appropriate.

#### (c) REPORTS.—

(1) INFORMATION-SHARING.—Not later than 30 days after the head of a field office implements a new technique or technology developed in whole or in part with funding provided under subsection (a), the head of the field office shall submit a report to the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security, the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Science and Technology, and the heads of the other field offices regarding the technique or technology in order for successful techniques and technologies to be replicated by other offices.

#### (2) CONTENTS.—The report shall include—

(A) a description of the technique or technology developed or implemented with funds provided under subsection (a); and

(B) information on—

(i) how the technique or technology was employed to enhance border security;

(ii) the effectiveness of the technique or technology for enhancing border security; and

(iii) the need for future development or implementation of additional techniques or technology;

(C) accounting for expenditures of funds received under subsection (a);

(D) requesting more funding under subsection (a) if the head of the field office believes it necessary to improve or further develop the technique or technology, or to develop additional techniques or technologies; and

(E) providing an explanation of the need for such additional funding and a justification for the amount requested.

#### SEC. 103. USE OF AERIAL SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

(a) PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Secretary of Defense, and the Administrator of the Federal Aviation Administration shall develop a pilot program to utilize, or increase the utilization of, aerial surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider current and proposed aerial surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that can be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) **ADDITIONAL REQUIREMENTS.**—

(1) **IN GENERAL.**—The pilot program shall include the utilization of a variety of aerial surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) **USE OF UNMANNED AERIAL VEHICLES.**—The aerial surveillance technologies utilized in the pilot program shall include unmanned aerial vehicles.

(c) **IMPLEMENTATION.**—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) **REPORT.**—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

#### **SEC. 104. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.**

(a) **PILOT PROGRAM.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment of the technologies considered best suited to address such threats.

(b) **ADDITIONAL REQUIREMENTS.**—

(1) **IN GENERAL.**—The pilot program shall include the utilization of a variety of ground

surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) **TECHNOLOGIES.**—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) **IMPLEMENTATION.**—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) **REPORT.**—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

#### **SEC. 105. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.**

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local government agencies, and Indian tribal agencies on such matters.

(b) **REPORT.**—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security.

#### **SEC. 106. BORDER SECURITY COORDINATION.**

(a) **IN GENERAL.**—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Sec-

retary of Homeland Security for Information Analysis and Infrastructure Protection, shall work with Federal, State, local, and tribal agencies on law enforcement, emergency response, or security-related responsibilities for areas on or adjacent to the United States borders with Canada and Mexico to develop and implement a plan to ensure that border security is not compromised—

(1) when jurisdiction over an area or facility passes from one agency to another;

(2) in areas of shared jurisdiction; or

(3) when one Federal agency relinquishes jurisdiction to another pursuant to a memorandum of understanding.

(b) **KEY ELEMENTS OF PLAN.**—In developing the plan, the Under Secretary shall focus particularly on—

(1) the coordination of emergency responses to border security events;

(2) improved data-sharing and communications among the responsible agencies; and

(3) research and development relating to technology and systems for improved coordination among the responsible agencies.

(c) **REPORT.**—Not later than 1 year after implementing the plan under subsection (a), the Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Select Committee on Homeland Security, and other appropriate committees of Congress on the development and implementation of the plan. The report shall include information on Federal agency response times to calls for assistance on immigration-related matters from State and local government agencies.

#### **SEC. 107. MONITORING FOR BORDER AREA BIOTERRORISM ATTACKS.**

(a) **IN GENERAL.**—The Secretary of Homeland Security and the Secretary of Health and Human Services shall execute a memorandum of understanding between the Department of Homeland Security and the Department of Health and Human Services establishing a system—

(1) to monitor hospitals along the United States borders with Canada and Mexico for signs of potential health threats or bioterror attacks; and

(2) to ensure cooperation and information-sharing between the departments with respect to such threats or attacks.

(b) **REPORT.**—Not later than 1 year after the memorandum of understanding is executed and annually thereafter, the Secretaries shall transmit a joint report to the Congress on the system established under subsection (a) during the preceding calendar year. The report shall include a description of measures taken to deal with any problems reported, proposals for improving the system, and recommendations (including legislative recommendations if appropriate), to improve or expand the system.

#### **TITLE II—DEPARTMENT OF HOMELAND SECURITY DIRECTORATE OF SCIENCE AND TECHNOLOGY**

##### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

(a) **FISCAL YEAR 2005.**—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology \$1,039,350,000 for fiscal year 2005 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) \$129,300,000 shall be for radiological/nuclear countermeasures;

(2) \$407,000,000 shall be for biological countermeasures;

(3) \$62,700,000 shall be for chemical and high explosives countermeasures;

(4) \$39,700,000 shall be for the standards and State and local program;

(5) \$34,000,000 shall be for the Conventional Missions/Components Program;

(6) \$30,000,000 shall be for university programs;  
 (7) \$21,000,000 shall be for emerging threats;  
 (8) \$76,000,000 shall be for the Rapid Prototyping Program;  
 (9) \$101,900,000 shall be for threat and vulnerability testing and assessment;  
 (10) \$61,000,000 shall be for Counter MANPADS/Critical Infrastructure Protection;  
 (11) \$52,600,000 shall be for salary and expenses; and  
 (12) \$24,150,000 shall be for Research and Development Consolidation transferred funds.

(b) FISCAL YEAR 2006.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology \$1,045,656,000 for fiscal year 2006 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) \$133,179,000 shall be for radiological/nuclear countermeasures;  
 (2) \$419,210,000 shall be for biological countermeasures;

(3) \$64,581,000 shall be for chemical and high explosives countermeasures;

(4) \$40,891,000 shall be for the standards and State and local program;

(5) \$35,020,000 shall be for the Conventional Missions/Components Program;

(6) \$30,900,000 shall be for university programs;

(7) \$21,630,000 shall be for emerging threats;

(8) \$78,280,000 shall be for the Rapid Prototyping Program;

(9) \$104,957,000 shall be for threat and vulnerability testing and assessment;

(10) \$62,830,000 shall be for Counter MANPADS/Critical Infrastructure Protection; and

(11) \$54,178,000 shall be for salary and expenses.

(c) FISCAL YEAR 2007.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology \$1,077,025,680 for fiscal year 2007 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) \$137,174,370 shall be for radiological/nuclear countermeasures;

(2) \$431,786,300 shall be for biological countermeasures;

(3) \$66,518,430 shall be for chemical and high explosives countermeasures;

(4) \$42,117,730 shall be for the standards and State and local program;

(5) \$36,070,600 shall be for the Conventional Missions/Components Program;

(6) \$31,827,000 shall be for university programs;

(7) \$22,278,900 shall be for emerging threats;

(8) \$80,628,400 shall be for the Rapid Prototyping Program;

(9) \$108,105,710 shall be for threat and vulnerability testing and assessment;

(10) \$64,714,900 shall be for Counter MANPADS/Critical Infrastructure Protection; and

(11) \$55,803,340 shall be for salary and expenses.

(d) FISCAL YEAR 2008.—There are authorized to be appropriated to the Secretary of Homeland Security for the Directorate of Science and Technology \$1,109,336,450 for fiscal year 2008 to carry out title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), of which—

(1) \$141,289,601 shall be for radiological/nuclear countermeasures;

(2) \$444,739,889 shall be for biological countermeasures;

(3) \$68,513,983 shall be for chemical and high explosives countermeasures;

(4) \$43,381,262 shall be for the standards and State and local program;

(5) \$37,152,718 shall be for the Conventional Missions/Components Program;

(6) \$32,781,810 shall be for university programs;

(7) \$22,947,267 shall be for emerging threats;

(8) \$83,047,252 shall be for the Rapid Prototyping Program;

(9) \$111,348,881 shall be for threat and vulnerability testing and assessment;

(10) \$66,656,347 shall be for Counter MANPADS/Critical Infrastructure Protection; and

(11) \$57,477,440 shall be for salary and expenses.

#### SEC. 202. RESEARCH NEEDS AND PRIORITIES REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Under Secretary of Homeland Security for Science and Technology shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security a report on research and development needs and priorities identified for all elements of the Department of Homeland Security.

(b) CONTENT.—The report shall include a description of—

(1) the research and development needs in support of the Department's missions;

(2) priorities established for directing, funding, and conducting research and development activities of the Department;

(3) the Directorate of Science and Technology's efforts and priorities to meet the research and development needs of the Department;

(4) the progress that the Science and Technology Directorate has made in its efforts to meet the needs described in paragraph (1); and

(5) strategies to coordinate and integrate all research, development, demonstration, testing, and evaluation activities of the Department.

#### SEC. 203. NATIONAL ACADEMY OF SCIENCES.

(a) REVIEW.—Not later than 60 days after the initial report is submitted under section 202, the Under Secretary of Homeland Security for Science and Technology shall contract with the National Academy of Sciences to conduct a review of the Science and Technology Directorate's research and development needs and priorities described in the report. The review shall include—

(1) an assessment of the Directorate's ability to meet the research and development needs of the Department of Homeland Security;

(2) a review of the process used to determine research priorities;

(3) a review of the grant proposal evaluation process; and

(4) a review of the technology transfer process.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security on the results of the review conducted under subsection (a).

#### SEC. 204. RESEARCH AND DEVELOPMENT ACTIVITIES REPORTS.

Not later than 60 days after the initial report is submitted under section 202, the Secretary of Homeland Security shall—

(1) identify all research and development activities in the Department of Homeland Security that are not conducted within the Directorate of Science and Technology; and

(2) consolidate those activities so as to eliminate needless duplication of effort.

#### SEC. 205. PERSONNEL PLAN.

Not later than 3 months after the date of enactment of this Act, the Under Secretary of Homeland Security for Science and Technology shall submit a personnel staffing plan for the Science and Technology Directorate to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science. The plan shall include information on recruitment procedures, compensation arrangements, and the number and qualifications of employees required for the Directorate.

#### SEC. 206. HOMELAND SECURITY INSTITUTE.

Section 312 of the Homeland Security Act of 2002 (6 U.S.C. 192) is amended by striking subsection (g).

#### SEC. 207. TECHNOLOGY TRANSFER AND LICENSING OFFICE.

(a) ESTABLISHMENT OF THE OFFICE.—The Under Secretary of Homeland Security for Science and Technology shall establish a Technology Transfer and Licensing Office within the Directorate of Science and Technology. The Office shall—

(1) facilitate the transfer of technologies into and out of the Directorate of Science and Technology; and

(2) handle the licensing activities for the Directorate of Science and Technology.

(b) TECHNOLOGY TRANSFER PLAN.—Not later than 180 days after the date of enactment of this Act, the Under Secretary shall develop and implement a technology transfer plan for the Directorate. The technology transfer plan shall include—

(1) a framework of oversight and administrative requirements for carrying out technology transfer activities;

(2) a description of how the Office will identify, assess, license, and monitor research and development projects that the Department and its related facilities determine have a potential for public and commercial application; and

(3) procedures for the dissemination of information on Federally owned or originated products, processes, and services to interested parties.

(c) PLAN AND REPORT.—The Under Secretary shall transmit a copy of the plan, together with recommendations (including legislative recommendations) if any, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security within 1 year after the plan is implemented.

#### SEC. 208. HOMELAND SECURITY TECHNOLOGY INVESTMENT STUDY.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall initiate and complete a study to determine the feasibility of funding a nonprofit government-sponsored enterprise for the purpose of investing in private sector enterprises to support research and development of new technologies that show promise for homeland security applications.

(b) REPORT.—The Secretary shall transmit a report, with the Secretary's findings, conclusions, and recommendations (including legislative recommendations, if appropriate), within 120 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Select Committee on Homeland Security.

By Mrs. HUTCHISON (for herself and Ms. SNOWE):

S. 2297. A bill to improve intermodal shipping container transportation security; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2297

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Shipping Container Security Act".

#### SEC. 2. NATIONAL TRANSPORTATION SECURITY STRATEGY.

In carrying out section 114(f) of title 49, United States Code, the Under Secretary of Homeland Security for Border and Transportation Security shall take into account the National Maritime Transportation Security Plan prepared under section 70103 of title 46, United States Code, by the Secretary of the department in which the Coast Guard is operating when the plan is prepared in order to ensure that the strategy for dealing with threats to transportation security developed under section 114(f)(3) of title 49, United States Code, incorporates relevant aspects of the National Maritime Transportation Security Plan and addresses all modes of commercial transportation to, from, and within the United States.

#### SEC. 3. COMPREHENSIVE STRATEGIC PLAN FOR INTERMODAL SHIPPING CONTAINER SECURITY.

##### (a) STRATEGIC PLAN.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a strategic plan for integrating security for all modes of transportation by which intermodal shipping containers arrive, depart, or move in interstate commerce in the United States that—

(A) takes into account the security-related authorities and missions of all Federal, State, and local law enforcement agencies that relate to the movement of intermodal shipping containers via air, rail, maritime, or highway transportation in the United States; and

(B) establishes as a goal the creation of a comprehensive, integrated strategy for intermodal shipping container security that encompasses the authorities and missions of all those agencies and sets forth specific objectives, mechanisms, and a schedule for achieving that goal.

(2) UPDATES.—The Secretary shall revise the plan from time to time.

(c) IDENTIFICATION OF PROBLEM AREAS.—In developing the strategic plan required by subsection (a), the Secretary shall consult with all Federal, State, and local government agencies responsible for security matters that affect or relate to the movement of intermodal shipping containers via air, rail, maritime, or highway transportation in the United States in order to—

(1) identify changes, including legislative, regulatory, jurisdictional, and organizational changes, necessary to improve coordination among those agencies;

(2) reduce overlapping capabilities and responsibilities; and

(3) streamline efforts to improve the security of such intermodal shipping containers.

(d) ESTABLISHMENT OF STEERING GROUP.—The Secretary shall establish, organize, and provide support for an advisory committee, to be known as the Senior Steering Group, of senior representatives of the agencies described in subsection (c). The Group shall meet from time to time, at the call of the Secretary or upon its own motion, for the purpose of developing solutions to jurisdictional and other conflicts among the represented agencies with respect to the security of intermodal shipping containers, improving coordination and information-sharing among the represented agencies, and addressing such other, related matters, as the Secretary may request.

(e) ANNUAL REPORT.—The Secretary, after consulting the Senior Steering Group, shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the activities of the Senior Steering Group and the Secretary under this section, describing the progress made during the year toward achieving the objectives of the plan, and including any recommendations, including legislative recommendations, if appropriate for further improvements in dealing with security issues related to intermodal shipping containers and related transportation security issues.

##### (f) BIENNIAL EXPERT CRITIQUE.—

(1) EXPERT PANEL.—A panel of experts shall be convened once every 2 years by the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure to review plans submitted by the Secretary under subsection (a).

(2) MEMBERSHIP.—The panel shall consist of—

(A) 4 individuals selected by the chairman and ranking member of the Senate Committee on Commerce, Science, and Transportation and by the chairman and ranking member of House of Representatives Committee on Transportation and Infrastructure, respectively; and

(B) 1 individual selected by the 4 individuals selected under subparagraph (A).

(3) QUALIFICATIONS.—Individuals selected under paragraph (2) shall be chosen from among individuals with professional expertise and experience in security-related issues involving shipping or transportation and without regard to political affiliation.

(4) COMPENSATION AND EXPENSES.—An individual serving as a member of the panel shall not receive any compensation or other benefits from the Federal Government for serving on the panel or be considered a Federal employee as a result of such service. Panel members shall be reimbursed by the Committees for expenses, including travel and lodging, they incur while actively engaged in carrying out the functions of the panel.

(5) FUNCTION.—The panel shall review plans submitted by the Secretary under subsection (a), evaluate the strategy set forth in the plan, and make such recommendations to the Secretary for modifying or otherwise improving the strategy as may be appropriate.

#### SEC. 4. SHIPPING CONTAINER INTEGRITY INITIATIVE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended

(1) by redesignating section 70117 as section 70118; and

(2) by inserting after section 70116 the following:

**"§ 70117. Enhanced container-related security measures.**

**"(a) TRACKING INTERMODAL CONTAINER SHIPMENTS IN THE UNITED STATES.—**The Secretary, in cooperation with the Under Sec-

retary of Border and Transportation Security, shall develop a system to increase the number of intermodal shipping containers physically inspected (including nonintrusive inspection by scanning technology), monitored, and tracked within the United States.

**"(b) SMART BOX TECHNOLOGY.—**Under regulations to be prescribed by the Secretary, beginning with calendar year 2007 no less than 50 percent of all ocean-borne shipping containers entering the United States during any calendar year shall incorporate 'Smart Box' or equivalent technology developed, approved, or certified by the Under Secretary of Homeland Security for Border and Transportation Security. Beginning with calendar year 2009, any such container that does not incorporate 'Smart Box' or equivalent technology may not enter the United States.

**"(c) DEVELOPMENT OF INTERNATIONAL STANDARD FOR SMART CONTAINERS.—**The Secretary shall—

**"(1)** develop, and seek international acceptance of, a standard for 'smart' maritime shipping containers that incorporate technology for tracking the location and assessing the integrity of those containers as they move through the intermodal transportation system; and

**"(2)** implement an integrated tracking and technology system for such containers."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70117 and inserting the following:

"70117. Enhanced container-related security measures.

"70118. Civil penalties."

#### SEC. 5. ADDITIONAL RECOMMENDATIONS.

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report that contains the following:

(1) Recommendations about what analysis must be performed and the cost to develop and field a cargo container tracking and monitoring system within the United States which tracks all aviation, rail, maritime, and highway cargo containers equipped with smart container technology.

(2) Recommendations on how the Department of Homeland Security could help support the deployment of such a system.

(3) Recommendations as to how current efforts by the Department of Homeland Security and other Federal agencies could be incorporated into the physical screening or inspection of aviation, rail, maritime, and highway cargo containers within the United States.

(4) Recommendations about operating systems and standards for those operating systems, to support the tracking of aviation, rail, maritime, and highway cargo containers within the United States that would include the location of regional, State, and local operations centers.

(5) A description of what contingency actions, measures, and mechanisms should be incorporated in the deployment of a nationwide aviation, rail, maritime, and highway cargo containers tracking and monitoring system which would allow the United States maximum flexibility in responding quickly and appropriately to increased terrorist threat levels at the local, State, or regional level.



(6) A description of what contingency actions, measures, and mechanisms must be incorporated in the deployment of such a system which would allow for the quick reconstitution of the system in the event of a catastrophic terrorist attack which affected part of the system.

(7) Recommendations on how to leverage existing information and operating systems within State or Federal agencies to assist in the fielding of the system.

(8) Recommendations on co-locating local, State, and Federal agency personnel to streamline personnel requirements, minimize costs, and avoid redundancy.

(9) An initial assessment of the availability of private sector resources which could be utilized, and incentive systems developed, to support the fielding of the system, and the maintenance and improvement as technology or terrorist threat dictate.

(10) Recommendations on how this system that is focused on the continental United States would be integrated into any existing or planned system, or process, which is designed to monitor the movement of cargo containers outside the continental United States.

#### SEC. 6. IMPROVEMENTS TO CONTAINER TARGETING SYSTEMS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary plan for strengthening the Bureau of Customs and Border Protection's container targeting system. The plan shall identify the cost and feasibility of requiring additional non-manifest documentation for each container, including purchase orders, shipper's letters of instruction, commercial invoices, letters of credit, or certificates of origin.

(b) REDUCTION OF MANIFEST REVISION WINDOW.—Within 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue regulations under which the time period for revisions to a container cargo manifest submitted to the Bureau of Customs and Border Protection shall be reduced from 60 days to 45 days after arrival at a United States port.

(c) SUPPLY CHAIN INFORMATION.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a system to share threat and vulnerability information with all of the industries in the supply chain that will allow ports, carriers, and shippers to report on security lapses in the supply chain and have access to unclassified maritime threat and security information such as piracy incidents.

#### SEC. 7. INCREASE IN NUMBER OF CUSTOMS INSPECTORS ASSIGNED OVERSEAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to duty outside the United States under the Container Security Initiative of the United States Customs Service with responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) STAFFING CRITERIA.—In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers—

(1) the volume of containers shipped;

(2) the ability of the host government to assist in both manning and providing equipment and resources;

(3) terrorist intelligence known of importer vendors, suppliers or manufactures; and

(4) other criteria as determined in consult with experts in the shipping industry, terrorism, and shipping container security.

(c) MINIMUM NUMBER.—The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator of the Transportation Security Administration within 180 days after the date of enactment of this Act.

(d) PLAN.—The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 2299. A bill to strengthen the national security by encouraging and assisting in the expansion and improvement of educational programs to meet critical needs at the elementary, secondary, and higher education levels; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I rise to speak about the need for legislation to help attract the most highly skilled Federal workforce. To help reach that goal, we need an education system that will ensure that every young person has the tools needed to succeed in the 21st century.

I have spoken many times about the fall of 1957, when the Soviet Union launched Sputnik into orbit. We were caught off guard as a Nation. The start of the space race revealed to us that major changes had to be made to preserve our national security and to pull ahead in scientific and technological innovation.

One year later, Congress passed landmark legislation—the National Defense Education Act. The purpose of the act was “to strengthen the national defense and to encourage and assist in the expansion and improvement of educational programs to meet critical national needs.” The National Defense Education Act provided assistance to State and local school systems to strengthen instruction in science, math, foreign languages, and other critical subjects. It also created low-interest student loan programs and fellowships to open the door to higher education to a greater number of young people.

This coordinated national effort helped our Nation meet its goals. By 1969, Americans had landed on the moon. The United States became the most technologically advanced nation in the world. A new generation of highly skilled mathematicians, scientists, and technology experts were hired to staff laboratories, universities, and Federal agencies. Colleges and universities also established centers for foreign language study and research.

Sadly, this Nation received another wake-up call on September 11, 2001.

The week after the attacks, FBI Director Robert Mueller made a public plea for Arabic and Farsi speakers to assist as translators, signaling the alarming deficiency in fluent speakers of languages crucial to our national security needs. It does our Nation little good to have sophisticated weapons programs if we don't have the scientists to back them up. It does our Nation no good to have expanded intelligence gathering capabilities if what we retrieve sits untranslated. The United States must have the brainpower to match its firepower.

Today I join Senator AKAKA to introduce a bill to make investments in our future as a Nation through investments in our education system.

The Homeland Security Education Act will fund partnerships between local school districts and foreign language departments in institutions of higher education. These new foreign language partnerships will provide intensive professional development opportunities for foreign language teachers at every level from Kindergarten to 12th grade. The partnerships will foster contact and communication between university faculty and K-12 teachers in order to improve teachers' knowledge of the languages they teach as well as their teaching skills. Partnerships will also use grant funds to recruit foreign language majors to the classroom. Our bill will give priority to partnerships that include high-need school districts and that put a focus on languages that are critical for our future security needs.

Our bill will encourage more undergraduates to complete degrees in mathematics, science, engineering, and the less-commonly taught, critical foreign languages by establishing a program to forgive the interest on a borrower's student loans if he or she earns a degree in one of these subjects. This will provide an incentive for students who are interested in language, math or science to study them in depth.

The bill establishes grants for partnerships between school districts and private entities to help schools improve science and math curriculum, upgrade laboratory facilities, and purchase scientific equipment. The private sector partner will donate technology or equipment to the school district; provide scholarships for students to study math, science or engineering in college; establish internship or mentoring opportunities for students; or sponsor programs targeted to young people who are under-represented in the fields of math, science and engineering.

In order to stay on top of innovations in science and technology, more professionals in these fields will need to be proficient also in a foreign language. This is imperative to our national security—even some scientific documents and articles in the public domain are beyond the translation capabilities of our government. The Homeland Security Education Act will make



grants available to colleges and universities to establish programs in which students take courses in science, math and technology taught in a foreign language. Funds will also support immersion programs for students to take science and math courses in a non-English speaking country.

The Homeland Security Education Act authorizes \$20 million for the National Flagship Language Initiative, which was authorized in the last Congress. The funds will be used to provide institutional grants to universities to graduate specific numbers of students with the foreign language proficiencies needed by the government and will allow the universities to operate foreign language immersion programs overseas. Participating institutions will make available a negotiated number of slots to student applicants who are Federal employees.

With this legislation, we hope to address some of the gaps in homeland security that have been identified by numerous experts and panels, including the Hart-Rudman Commission on National Security in the 21st Century. We must do everything possible to ensure that our intellectual preparedness is equal to our military preparedness. I urge my colleagues to join us in co-sponsoring this important legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2299

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeland Security Education Act".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) American elementary and secondary schools need more qualified teachers in mathematics and science.

(2) American colleges and universities must place new emphasis on improving the teaching in areas of disciplines that are critical to the interests of the United States.

(3) American elementary and secondary schools need the equipment and resources to improve education in science and mathematics.

(4) Foreign language proficiency is crucial to the economic competitiveness and national security of the United States. Significant improvement in the quantity and quality of foreign language instruction offered in United States elementary and secondary schools is necessary.

(5) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

(b) PURPOSE.—It is the purpose of this Act to ensure national security through increasing the quantity, diversity, and quality of the teaching and learning of subjects in the fields of science, mathematics, and foreign language.

#### TITLE I—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

##### SEC. 101. SUBSIDIZED INTEREST LOANS TO STUDENTS.

(a) IN GENERAL.—The Secretary of Education shall establish and implement a program under the guaranteed and direct stu-

dent loan program provisions of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) to cancel the obligation of loan borrowers who are United States citizens, United States nationals, permanent legal residents, or citizens of the Freely Associated States (as defined in section 103(16)(b) of the Higher Education Act of 1965), to pay interest on a loan provided for under such title in order to serve as an incentive for students to obtain degrees in science, engineering, mathematics, or a foreign language.

(b) GUARANTEED STUDENT LOANS.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 428K the following:

##### "SEC. 428L. STUDENT LOAN INTEREST FORGIVENESS.

"(a) PURPOSE.—It is the purpose of this section to forgive interest payments on student loans under this part for a selected borrower in repayment status who has obtained an undergraduate degree in science, mathematics, engineering, or a foreign language in order to provide additional incentives for undergraduate students to pursue and obtain degrees in these subjects.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From the sums appropriated pursuant to subsection (d), the Secretary shall carry out a program, through the holder of the loan, assuming the obligation to repay the interest on a loan amount for a loan made under this part in accordance with subsection (c), for a borrower who—

"(A) is in need of the amount of the loan to pursue a course of study at an accredited institution of higher education;

"(B) is in good academic standing and is capable, in the opinion of the institution of higher education involved, of maintaining good standing in such course of study;

"(C) will obtain a bachelor's degree in science, mathematics, engineering, or a foreign language;

"(D) has completed at least half of the course requirements necessary to receive such degree; and

"(E) is not in default on a loan for which the borrower seeks forgiveness of interest payments.

"(2) SELECTION OF RECIPIENTS.—The Secretary shall, by regulation, establish a formula that ensures fairness and equality for applicants in the selection of borrowers for loan interest repayment under this section, based on the amount available pursuant to subsection (d).

"(c) TERMS.—After a borrower has obtained a bachelor's degree in science, mathematics, engineering, or a foreign language, the Federal Government shall assume any interest payments due for as long as the borrower is in loan repayment status, except that in failing to meet any of the obligations set forth in this section, the borrower will reimburse the Federal Government for the amount of the assistance provided including interest, at a rate and schedule to be determined by the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(e) DEFINITIONS.—In this section:

"(1) FOREIGN LANGUAGE.—The term 'foreign language' includes the languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any language identified by the National Security Education Program as a critical foreign language need.

"(2) SCIENCE.—The term 'science' means any of the natural and physical sciences including, but not limited to, chemistry, biology, physics, and computer science. Such

term shall not include any of the social sciences."

(c) DIRECT STUDENT LOANS.—Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:

##### "SEC. 460A. STUDENT LOAN INTEREST FORGIVENESS.

"(a) PURPOSE.—It is the purpose of this section to forgive interest payments on student loans under this part for a student in repayment status who has obtained an undergraduate degree in science, mathematics, engineering, or a foreign language in order to provide additional incentives for undergraduate students to pursue degrees in these subjects.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From the sums appropriated pursuant to subsection (d), the Secretary shall cancel the obligation to pay interest on a loan amount, in accordance with subsection (c) for a loan under this part, for a borrower who—

"(A) is in need of the amount of the loan to pursue a course of study at an accredited institution of higher education;

"(B) is in good standing and is capable, in the opinion of the institution of higher education involved, of maintaining good standing in such course of study;

"(C) will obtain a bachelor's degree in either science, mathematics, engineering, or a foreign language;

"(D) has completed at least half of the course requirements toward such degree; and

"(E) is not in default on a loan for which the borrower seeks forgiveness of interest payments.

"(2) SELECTION OF RECIPIENTS.—The Secretary shall by regulation, establish a formula that ensures fairness and equality for applicants in the selection of borrowers for loan interest repayment under this section, based on the amount available pursuant to subsection (d).

"(c) TERMS.—After a borrower has obtained a bachelor's degree in science, mathematics, engineering, or a foreign language, the Federal Government shall assume any interest payments due for as long as the borrower is in loan repayment status, except that in failing to meet any of the obligations set forth in this section, the borrower will reimburse the Federal Government for the amount of the assistance provided including interest, at a rate and schedule to be determined by the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(e) DEFINITIONS.—In this section:

"(1) FOREIGN LANGUAGE.—The term 'foreign language' includes the languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any language identified by the National Security Education Program as a critical foreign language need.

"(2) SCIENCE.—The term 'science' means any of the natural and physical sciences including, but not limited to, chemistry, biology, physics, and computer science. Such term shall not include any of the social sciences."

##### SEC. 102. REPORT TO CONGRESS.

Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall propose regulations to carry out this title and submit to the appropriate committees of Congress a report on how the Secretary of Education plans to implement the programs under the amendments made by section 101 and advertise such programs to institutions of higher education and potential applicants. Not later than 6 months

after the date on which the comment period for the regulations proposed under the preceding sentence ends, the Secretary of Education shall promulgate final regulations to carry out this title.

## **TITLE II—STRENGTHENING SCIENCE AND MATHEMATICS INSTRUCTION AT ELEMENTARY AND SECONDARY SCHOOLS**

### **SEC. 201. FEDERAL GRANTS TO PUBLIC SCHOOLS.**

Title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7201 et seq.) is amended by adding at the end the following:

#### **“PART E—STRENGTHENING SCIENCE AND MATHEMATICS INSTRUCTION**

### **“SEC. 5701. FEDERAL GRANTS TO PUBLIC SCHOOLS.**

“(a) GENERAL AUTHORITY.—

“(1) GRANT PROGRAM.—The Secretary shall establish a demonstration program under which the Secretary shall award grants to eligible local educational agencies to enable such agencies to develop programs that build or expand mathematics and science curriculum, upgrade existing laboratory facilities, and purchase equipment necessary to establish such programs.

“(2) PROGRAM REQUIREMENTS.—The program described in paragraph (1) shall be designed to provide students with a rich standards-based course of study in mathematics and science.

“(b) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—A local educational agency shall be eligible to receive a grant under this section if the agency—

“(1) provides assurances that it has executed conditional agreements with representatives of the private sector to provide services and funds described in subsection (c); and

“(2) agrees to enter into an agreement with the Secretary to comply with the requirements of this section.

“(c) PRIVATE SECTOR PARTICIPATION.—The conditional agreements referred to in subsection (b)(1) shall describe participation by the private sector in programs carried out under this section, including—

“(1) the donation of technology tools;

“(2) the establishment of internship and mentoring opportunities for students who participate in a mathematics or science program, paying particular attention to those students who are members of traditionally under-represented groups in these fields; or

“(3) the donation of scholarship funds for students to pursue or continue a study of mathematics or science at accredited institutions of higher education.

“(d) APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive a grant under this section, an eligible local educational agency (as described in subsection (b)) shall submit an application to the Secretary in accordance with guidelines established by the Secretary pursuant to paragraph (2).

“(2) GUIDELINES.—

“(A) REQUIREMENTS.—The guidelines referred to in paragraph (1) shall require, at a minimum, that the application include—

“(i) a description of proposed activities consistent with the uses of funds and program requirements under subsection (a);

“(ii) a description of programs involving innovative experience learning such as laboratory experience;

“(iii) a description of any applicable higher education scholarship program, including criteria for selection, duration of scholarships, number of scholarships to be awarded each year, and funding levels for scholarships; and

“(iv) evidence of private sector participation and support in cash or in kind as specified under subsection (c).

“(B) GUIDELINE PUBLICATION.—Not later than 6 months after the date of enactment of this section, the Secretary shall issue and publish proposed guidelines under subparagraph (A). Not later than 6 months after the date on which the period for comment concerning the proposed guidelines ends, the Secretary shall issue final guidelines under such subparagraph.

“(3) SELECTION.—The Secretary shall select a local educational agency to receive a grant under this section on the basis of merit, as determined after the Secretary has conducted a comprehensive review, and in accordance with subsection (e).

“(e) PRIORITY.—The Secretary shall give special priority in awarding grants under this section to eligible high need local educational agencies (as such term is defined in section 201(b) of the Higher Education Act of 1965).

“(f) CONDITIONAL AGREEMENT.—In this section, the term ‘conditional agreement’ means an arrangement between representatives of the private sector and local educational agencies to provide certain services and funds, such as the donation of computer hardware and software, the donation of science laboratory equipment suitable for students in kindergarten through grade 12, the establishment of internship and mentoring opportunities for students who participate in mathematics, science, and information technology programs, and the donation of scholarship funds for use at institutions of higher education by eligible students who have participated in the mathematics, science, and information technology programs.

“(g) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, \$75,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 5 succeeding fiscal years.

### **“SEC. 5702. SCIENCE AND MATHEMATICS EDUCATION STUDY.**

“(a) IN GENERAL.—The Secretary, in cooperation with the Director of the National Science Foundation, shall conduct a study of how mathematics and science efforts at the National Science Foundation and the Department of Education relating to students in kindergarten through grade 12 are coordinated, and if such coordination does not exist, how such entities plan to coordinate such efforts.

“(b) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the findings made with respect to the study conducted under subsection (a).

### **“SEC. 5703. DEFINITION.**

“In this part, the term ‘science’ means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.”.

### **SEC. 202. NATIONAL MATHEMATICS AND SCIENCE NEEDS ASSESSMENT.**

(a) IN GENERAL.—The Secretary of Education, jointly with the Director of the National Science Foundation, shall conduct an assessment of the long-term mathematics and science needs of the national security workforce and of the larger Federal workforce of which the national security workforce is a part.

(b) REPORT.—Not later than 18 months after the date of enactment of this section, the Secretary of Education shall prepare and submit to the appropriate committees of Congress a report concerning the findings made with respect to the assessment conducted under subsection (a).

## **TITLE III—PROMOTING FOREIGN LANGUAGE EDUCATION**

### **SEC. 301. FINDINGS.**

Congress makes the following findings:

(1) Foreign language skills and area expertise are integral to, or directly support, every foreign intelligence discipline and are essential factors in national security readiness, information superiority, and coalition peacekeeping or warfighting missions.

(2) Federal intelligence and defense agencies have been reporting shortfalls in language capability.

(3) Communicating in languages other than English and understanding and accepting cultural and societal differences are vital to the success of peacetime and wartime military operations.

(4) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation.

(5) Foreign language study can increase children's capacity for critical and creative thinking skills, and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

(6) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests in reading, language arts, and mathematics than children who have not studied a foreign language.

(7) Proficiency levels required to perform national security functions have been raised, and what was once considered proficiency is no longer the case. The ability to comprehend and articulate technical and complex information has become critical.

(8) Languages taught in universities are often not the languages that address national security needs. The top languages the United States Defense Language Institute requires are Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, and Serbian-Croatian. Existing foreign language proficiency in nontargeted languages also provides a foundation for subsequent foreign languages, even if unrelated.

(9) Immersion through work or schooling abroad is very beneficial for developing needed language proficiencies.

(10) Federal agencies have identified the need for employees proficient in foreign languages who have diverse skills including cryptography, translation (particularly with technical documents), debriefing, and interrogation.

### **SEC. 302. ENCOURAGING EARLY FOREIGN LANGUAGE STUDIES.**

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended by adding at the end the following:

#### **“PART E—ENCOURAGING EARLY FOREIGN LANGUAGE STUDIES**

### **“SEC. 2501. ENCOURAGING EARLY FOREIGN LANGUAGE STUDIES.**

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE PARTNERSHIP.—The term ‘eligible partnership’ means a partnership that—

“(A) shall include—

“(i) a foreign language department of an institution of higher education; and

“(ii) a local educational agency; and

“(B) may include—

“(i) another foreign language or teacher training department of an institution of higher education;

“(ii) another local educational agency, or an elementary or secondary school;

“(iii) a business;

“(iv) a nonprofit organization of demonstrated effectiveness, including a museum;

“(v) heritage or community centers for language study;

“(vi) language resource centers authorized under part A of title VI of the Higher Education Act of 1965; or

“(vii) the State foreign language coordinator or State educational agency.

“(2) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term ‘high need local educational agency’ has the meaning given the term in section 201(b) of the Higher Education Act of 1965.

“(3) LESS-COMMONLY TAUGHT FOREIGN LANGUAGES.—The term ‘less-commonly taught foreign languages’ includes the languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any other language identified by the National Security Education Program as a critical foreign language need.

“(4) SUMMER WORKSHOP OR INSTITUTE.—The term ‘summer workshop or institute’ means a workshop or institute, conducted during the summer, that—

“(A) is conducted for a period of not less than 2 weeks;

“(B) provides for a program that provides direct interaction between students and faculty; and

“(C) provides for followup training during the academic year that—

“(i) except as provided in clause (ii) or (iii), shall be conducted in the classroom for a period of not less than 3 days, which may or may not be consecutive;

“(ii) if the program described in subparagraph (B) is for a period of not more than 2 weeks, shall be conducted for a period of more than 3 days; or

“(iii) if the program is for teachers in rural school districts, may be conducted through distance education.

“(b) PURPOSE.—It is the purpose of this section to improve the performance of students in the study of foreign languages by encouraging States, institutions of higher education, elementary schools, and secondary schools to participate in programs that—

“(1) upgrade the status and stature of foreign language teaching by encouraging institutions of higher education to assume greater responsibility for improving foreign language teacher education through the establishment of a comprehensive, integrated system of recruiting and advising such teachers;

“(2) focus on education of foreign language teachers as a career-long process that should continuously stimulate teachers’ intellectual growth and upgrade teachers’ knowledge and skills;

“(3) bring foreign language teachers in elementary schools and secondary schools together with linguists or higher education foreign language professionals to increase the subject matter knowledge and improve the teaching skills of teachers through the use of more sophisticated resources that institutions of higher education are better able to provide than the schools; and

“(4) develop more rigorous foreign language curricula that are aligned with—

“(A) professional accepted standards for elementary and secondary education instruction; and

“(B) the standards expected for post-secondary study in foreign language.

“(c) GRANTS TO PARTNERSHIPS.—

“(1) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of carrying out the authorized activities described in this section.

“(2) DURATION.—The Secretary shall award grants under this section for a period of 5 years.

“(3) FEDERAL SHARE.—The Federal share of the costs of the activities assisted under this section shall be—

“(A) 75 percent of the costs for the first year that an eligible partnership receives a grant payment under this section;

“(B) 65 percent of such costs for the second such year; and

“(C) 50 percent of such costs for each of the third, fourth, and fifth such years.

“(4) NON-FEDERAL SHARE.—The non-Federal share of the costs of carrying out the authorized activities described in this section may be provided in cash or in kind, fairly evaluated.

“(5) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible partnerships—

“(A) that include high need local educational agencies; or

“(B) that emphasize the teaching of the less-commonly taught foreign languages.

“(d) APPLICATIONS.—

“(1) IN GENERAL.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(2) CONTENTS.—An application under paragraph (1) shall include—

“(A) an assessment of the teacher quality and professional development needs of all the schools and agencies participating in the eligible partnership with respect to the teaching and learning of foreign languages;

“(B) a description of how the activities to be carried out by the eligible partnership will be based on a review of relevant research, and an explanation of why the activities are expected to improve student performance and to strengthen the quality of foreign language instruction; and

“(C) a description of—

“(i) how the eligible partnership will carry out the authorized activities described in subsection (e); and

“(ii) the eligible partnership’s evaluation and accountability plan as described in subsection (f).

“(e) AUTHORIZED ACTIVITIES.—Eligible activities to be conducted by an eligible partnership shall be related to elementary schools or secondary schools and shall include—

“(1) creating opportunities for enhanced and ongoing professional development that improves the subject matter knowledge of foreign language teachers;

“(2) recruiting university students with foreign language majors for teaching;

“(3) promoting strong teaching skills for foreign language teachers and teacher educators;

“(4) establishing foreign language summer workshops or institutes (including followup training) for teachers;

“(5) establishing distance learning programs for foreign language teachers;

“(6) designing programs to prepare a teacher at a school to provide professional development to other teachers at the school and to assist novice teachers at such school, including (if applicable) a mechanism to integrate experiences from a summer workshop or institute; and

“(7) developing instruction materials.

“(f) EVALUATION AND ACCOUNTABILITY PLAN.—Each eligible partnership receiving a grant under this section shall develop an evaluation and accountability plan for activities assisted under this section that includes strong performance objectives. The plan shall include objectives and measures for—

“(1) increased participation by students in advanced courses in foreign language;

“(2) increased percentages of secondary school classes in foreign language taught by teachers with academic majors in foreign language; and

“(3) increased numbers of foreign language teachers who participate in content-based professional development activities.

“(g) REPORT.—Each eligible partnership receiving a grant under this section shall annually report to the Secretary regarding the eligible partnership’s progress in meeting the performance objectives described in subsection (f).

“(h) TERMINATION.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the performance objectives described in subsection (f) by the end of the third year of a grant under this section, the grant payments shall not be made for the fourth and fifth year of the grant.

“(i) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, \$50,000,000 for fiscal year 2005, and such sums as may be necessary for each subsequent fiscal year.”

#### SEC. 303. SCIENCE AND TECHNOLOGY ADVANCED FOREIGN LANGUAGE EDUCATION GRANT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to support programs in colleges and universities that encourage students—

(1) to develop an understanding of science and technology;

(2) to develop foreign language proficiency; and

(3) to foster future international scientific collaboration.

(b) DEVELOPMENT.—The Secretary of Education shall develop a program for the awarding of grants to institutions of higher education that develop innovative programs for the teaching of foreign languages.

(c) REGULATIONS AND REQUIREMENTS.—The Secretary of Education shall promulgate regulations for the awarding of grants under subsection (b). Such regulations shall require institutions of higher education to use grant funds for, among other things—

(1) the development of an on-campus cultural awareness program by which students attend classes taught in the foreign language and study the science and technology developments and practices in a non-English speaking country;

(2) immersion programs where students take science or technology related coursework in a non-English speaking country; and

(3) other programs, such as summer workshops, that emphasize the intense study of a foreign language and science or technology.

(d) GRANT DISTRIBUTION.—In distributing grants to institutions of higher education under this section, the Secretary of Education shall give priority to—

(1) institutions that have programs focusing on curriculum that combines the study of foreign languages and the study of science and technology and produces graduates who have both skills; and

(2) institutions teaching the less-commonly taught languages of Arabic, Chinese, Japanese, Korean, Pashto, Persian-Farsi, Portuguese, Russian, Serbian-Croatian, and any language identified by the National Security Education Program as a critical foreign language need.

(e) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—In this section, the term “institution of higher education” has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) SCIENCE.—The term “science” means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.

(f) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this section, \$15,000,000 for fiscal year

2005, and such sums as may be necessary for each subsequent fiscal year.

**SEC. 304. NATIONAL FLAGSHIP LANGUAGE INITIATIVE.**

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended—

(1) in section 802(i)(1), by inserting “, including those establishing, operating, or improving foreign language immersion programs and activities at sites overseas,” after “activities”; and

(2) in section 811, by striking “\$10,000,000” and inserting “\$20,000,000”.

**SEC. 305. STUDY ON THE FEASIBILITY OF A NATIONAL LANGUAGE FOUNDATION.**

(a) IN GENERAL.—The Secretary of Education shall enter into an agreement with the National Research Council to conduct a study on the feasibility of establishing a National Language Foundation whose mission would include—

(1) research and development of teaching and learning curriculum and software;

(2) the establishment or advancement of standards to be used in the performance of language instruction and testing;

(3) service as a national resource center and provider for both public and private sectors in language education and training;

(4) the development of, and advocacy for, national policy and programs to improve the skills and certify the qualification of language teachers;

(5) the development of, and advocacy for, national policy and programs related to the development of foreign language capabilities and expansion of country and regional studies;

(6) the development of, and advocacy for, national professional criteria for qualification, employment, and adequate compensation for language services; and

(7) the development of a better understanding of the changing level of language proficiency and language needs of the Federal Government.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Education shall transmit to the Committee on Governmental Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Education and the Workforce of the House of Representatives a report setting forth the findings, conclusions, and public policy recommendations of the National Research Council relating to the creation of a National Language Foundation.

Mr. AKAKA. Mr. President, today I rise to join my good friend from Illinois, Senator DURBIN, in reintroducing the Homeland Security Education Act. Our legislation would improve science, math, and foreign language education in the United States by offering incentives for students to study these subjects and provide much needed funding to elementary, secondary, and post secondary institutions to improve educational programs in these critical subject areas.

As my colleagues know, the demand for individuals with technical and language expertise is growing. In 2001 the United States Commission on National Security/21st Century, also known as the Hart-Rudman Commission, concluded that America's need for many skilled people in science, math, computer science, and engineering is not being met. If we do not address this problem, America's position as a global

leader would be challenged. With the acceleration of the internationalization of science and technology activities, assets, and capabilities, U.S. advantages in many critical fields are shrinking and may be eclipsed in the years ahead.

While science, math, and engineering skills are especially critical for the defense and homeland security industries, expertise in these fields is also critical to the United States' success in the global economy. America's ability to lead depends particularly on the depth and breadth of its scientific and technical communities. Our education system must produce significantly more scientists and engineers to meet demand and maintain our global leadership in science and technology. We need to develop more qualified math and science teachers and provide educational incentives to encourage students to pursue careers in these fields. However, there will not be enough qualified workers to perform new technology jobs including those jobs critical to maintaining national security. It is more important than ever that we prepare the children of today with the skills necessary to succeed tomorrow.

Also critical for success in today's world is proficiency in foreign languages. The terrorist attacks of September 11, 2001, placed renewed emphasis on the need for individuals possessing critical language skills. Shortly after the terrorist attacks, FBI Director Robert Mueller made a public plea requesting speakers of Arabic and Farsi to translate intelligence documents, left untranslated due to the lack of foreign language speakers.

The investigations surrounding the attacks underscore how critical foreign language proficiency is to our national security. The joint Congressional Intelligence Committee inquiry into the terrorist attacks found that prior to September 11, the Intelligence Community was not prepared to handle the challenge of translating the volumes of foreign language counter-terrorism intelligence it had collected. Agencies within the Intelligence Community experienced backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only 30 percent in the most critical languages used by terrorists. These backlogs still exist.

Our foreign language needs have grown significantly over the past decade with increasing globalization and a changing security environment. Foreign language skills are needed to support traditional diplomatic efforts and public diplomacy programs, military and peacekeeping missions, intelligence collection, counter-terrorism efforts, and international trade.

Unfortunately, the United States faces a critical shortage of language proficient professionals government-wide. According to the General Accounting Office, agencies have shortages in translators and interpreters

and an overall shortfall in the language proficiency levels needed to carry out their missions. Our national security would be enhanced if our law enforcement officers, intelligence officers, scientists, military personnel, and other federal employees could decipher and interpret information from foreign sources, as well as interact with foreign nationals.

America needs people who are fluent in local languages and who understand foreign cultures. The stability and economic vitality of the United States and our national security depend on American citizens who are knowledgeable about the world. We need civil servants, area experts, diplomats, business people, educators, and other public servants with the ability to communicate at an advanced level in foreign languages and understand the cultures of the people with whom they interact.

The good news is that there has been a recent jump in enrollment in foreign language courses at the university level, according to the Modern Language Association. A total of 1.4 million students enrolled in foreign language classes in the Fall of 2003. This is a 17.9 percent jump since 1998 and represents the highest foreign language enrollment ever.

At the same time, many foreign language programs at the elementary school level have suffered deep cuts. Many school districts are responding to funding shortages by reducing or eliminating their foreign language programs. In some districts, French and German programs have been cut to save Spanish programs, while less commonly taught languages, such as Russian and Japanese, are being phased out altogether. Although my own state of Hawaii leads the nation in cutting edge foreign language immersion programs for elementary school students and is one of the top nine states in the nation in the percentage of public primary schools offering foreign language immersion programs, more must be done.

Experts tell us we should develop long-term relationships with people from every walk of life all across the world, whether or not the languages they speak are considered “critical” at the time. Experts also tell us that an ongoing commitment to maintaining these relationships and language expertise helps prevent crises from occurring and provides diplomatic and language resources when needed.

They are right. We cannot afford to seek out foreign language skills after a terrorist attack occurs. The failures of communication and understanding have already done their damage. We must provide an ongoing commitment to language education and encourage knowledge of foreign languages and cultures.

In 2001, my good friend and former colleague, the late Senator Paul Simon said, “In every national crisis, our nation has lamented its foreign language shortfalls. But then the crisis goes

away, and we return to business as usual. One of the messages of September 11 is that business as usual is no longer an acceptable option." Senator DURBIN and I are reintroducing this important legislation today in order to reaffirm our ongoing commitment to foreign language and science education.

In addition to the legislation we are introducing today, I have also introduced, with Senator DURBIN and several of our colleagues, S. 589, the Homeland Security Federal Workforce Act, to address these skill shortfalls in the federal government. The Senate passed S. 589 in November, and the bill is pending before the House. However, we must now ensure that we not only provide incentives to recruit individuals with these skills, but also ensure that there is a talented applicant pool from which to recruit. This new bill, the Homeland Security Education Act, will do just that.

The Homeland Security Education Act would provide incentives for students to obtain degrees in science, math, and foreign languages by offering to repay the interest on their student loans. Our legislation would also strengthen science and math instruction in elementary and secondary schools and promote foreign language education at all levels of study by encouraging greater training of foreign language teachers and the development of more rigorous foreign language education. These measures could have a significant impact on strengthening our nation's expertise in areas critical to national security.

I urge my colleagues to support this important legislation and improve our science, math, and foreign language education programs.

By Mr. KENNEDY (for himself, Mr. BINGAMAN, Mrs. BOXER, Mr. PRYOR, Mr. HOLLINGS, Mr. CORZINE, Mr. EDWARDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. DURBIN, and Ms. STABENOW):

S. 2300. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program and to reduce excessive payments to health maintenance organizations and other private sector insurance plans; to the Committee on Finance.

Mr. KENNEDY. Mr. President, senior citizens expected the Congress and the President to work together to provide prescription drug benefits under Medicare. Instead, Republicans in Congress and President Bush rammed through a radical right-wing proposal to privatize Medicare and force senior citizens into HMOs. Their program is a giveaway to special interests at the expense of senior citizens. It is a dress rehearsal for privatizing social security. And it is wrong.

Just a few weeks ago, the Medicare Trustee's report announced that Medicare's financial position had deteriorated substantially, with the pro-

jected date of Hospital Insurance Trust Fund Insolvency slipping from 2026 to 2019. In part, the shakier status of the trust fund was due to the Bush administration's mismanagement of the economy, which has reduced payroll tax collections. But a major part of the weakened status of the Trust Fund is the excessive payments to HMOs, PPOs and other alternatives to conventional Medicare. These excess payments not only weaken Medicare, but they raise premiums for senior citizens and add to the deficit.

Today, we are introducing legislation—the Defense of Medicare Act—to repeal the parts of the prescription drug bill that are designed to undermine Medicare. Senior citizens have earned their Medicare with a lifetime of hard work—and they deserve the program they have been promised.

President Bush's original strategy was to deny senior citizens any drug benefit unless they joined an HMO or other private insurance plan. That proposal was a non-starter, so the White House and Republicans in Congress developed a more devious way to achieve the same goal.

The Bush administration privatizes Medicare in three ways. First, it overpays private plans by \$1,200 per beneficiary—and throws in a \$12 billion dollar slush fund to boot. Let me repeat that. Every time a senior citizen joins an HMO it costs Medicare \$1,200 more than it would cost to cover that same senior citizen under the regular Medicare program. The goal—to make Medicare unable to compete.

According to the Medicare actuary, the excess payments to private plans as the result of the new bill will cost the Medicare program \$46 billion dollars—money that could be used to improve the inadequate drug benefit or to address the discrimination that will cause three million senior citizens to lose their good private retiree drug coverage or to reduce beneficiary premiums.

Those big new checks are already flowing to Medicare HMOs. Every senior citizen—and every American family—should understand what this means. The Bush administration is using senior citizens' own Medicare money to undermine the Medicare program they depend on. The Bush administration has put the interests of HMOs and the insurance industry first—and the interests of senior citizens last.

The second way the Republican Medicare bill forces senior citizens into HMOs is by specifying that if just one private stand-alone drug plan offers drug coverage, the only way a senior citizen can get a drug benefit is by joining an HMO or other private insurance plan. Think about that. If the insurance plan charges premiums that are too high or doesn't cover the drugs your doctor prescribes, your only choice if you want a drug benefit at all is to join an HMO. That's the Bush administration's original plan.

Finally, the bill forces up to seven million senior citizens into a so-called

demonstration program that will punish senior citizens with higher premiums unless they join an HMO or other private insurance plan.

The Bush administration is spending twenty-three million dollars of Medicare money to convince senior citizens that the Republican bill means, in the words of one of their commercials, "Same Medicare. More Benefits." This use of Medicare funds to advance the Bush re-election effort is probably illegal. It is certainly unethical. But most of all it is false. If this bill is allowed to stand, senior citizens won't have the same Medicare. Instead, they will have a debased, devalued program and financially less secure program that will require them to give up the doctors they trust to get the affordable medical care they have been promised.

Our legislation will repeal the provisions of the bill that squander Medicare money on fattening the profits of HMOs and the insurance industry. It will preserve Medicare for today's and tomorrow's senior citizens. It is a test of the conscience of the Senate, and we will insist on its consideration.

By Mr. INOUE:

S. 2301. A bill to improve the management of Indian fish and wildlife and gathering resources, and for other purposes; to the Committee on Indian Affairs.

Mr. INOUE. Mr. President, I rise to introduce a discussion draft bill that has been developed by Indian tribal governments to provide for the improvement of the management of Indian fish and wildlife resources and to reaffirm that tribal governments are the principal managers of natural resources on tribal lands.

The introduction of this discussion draft bill is intended to advance the process of consultation with Indian tribal governments, as well as tribal and Alaska Native organizations.

I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2301

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Fish and Wildlife Resources Management Act of 2004".

(b) TABLE OF CONTENTS.—

#### TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.

Sec. 102. Purposes.

Sec. 103. Definitions.

#### TITLE II—TRIBAL FISH AND WILDLIFE PROGRAMS

Sec. 201. Management of Tribal Fish and Wildlife Programs.

Sec. 202. Education in Tribal Fish and Wildlife Resource Management.

Sec. 203. Tribal Fish Hatchery Assistance Program.

### TITLE III—ALASKA NATIVE FISH AND WILDLIFE PROGRAMS

- Sec. 301. Management of Native Fish and Wildlife Programs in Alaska.  
 Sec. 302. Subsistence Resources and Management Planning.  
 Sec. 303. Alaska Native Seafood and Resource Marketing Assistance Program.

### TITLE IV—TRIBAL SEAFOOD AND RESOURCE MARKETING ASSISTANCE PROGRAM

- Sec. 401. Establishment of Tribal Seafood and Resource Marketing Assistance Program.  
 Sec. 402. Market Development Loan and Grants Program.

### TITLE V—TRIBAL BUFFALO CONSERVATION AND MANAGEMENT [to be developed]

### TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Authorization of Appropriations.  
 Sec. 602. Regulations.  
 Sec. 603. Savings.  
 Sec. 604. Severability.

### TITLE I—GENERAL PROVISIONS

#### SEC. 101. FINDINGS.

Congress finds that—

(1) the United States and Indian tribes have a government-to-government relationship;

(2) Indian tribes exercise governmental authority over their citizens and their lands, and retain all aspects of their inherent sovereignty not explicitly ceded to the United States;

(3) the wise use and sustainable management of tribal fish and wildlife resources has a direct effect on the economic security and health and welfare of Indian tribes;

(4) Indian tribes retain the sovereign governmental authority to exercise some aspects of civil jurisdiction over non-members on their reservations, including the exercise of some aspects of civil jurisdiction on non-trust lands;

(5) Federal canons of construction require that any modification of a treaty must be expressly provided for by the Congress;

(6) the United States has a trust responsibility to protect, conserve, and manage tribal natural resources, including fish and wildlife and gathering resources, consistent with the rights reserved by Indian tribes as reflected in treaties and other agreements with the United States, and judicial decrees;

(7) the United States' trust responsibility extends to all Federal agencies and departments, and absent a clear expression of Congressional intent to the contrary, the United States has a duty to administer Federal fish and wildlife conservation laws and resource management programs in a manner consistent with its fiduciary obligation to honor and protect the rights reserved by Indian tribes as reflected in treaties and other agreements with the United States, and judicial decrees;

(8) Federal statutes and regulations affecting tribal fish and wildlife resources and management activities shall be interpreted in accordance with long-standing principles of Federal-Indian law, statutes, and judicial decrees which inform the relationship between Indian tribal governments and the United States;

(9) the United States recognizes that fish and wildlife resources located on tribal lands, in regional tribal resource management areas, and in ceded territory in which hunting, fishing and gathering rights reserved by Indian tribes in treaties and other agreements with the United States, and in judicial decrees, continue to provide sustenance, cultural enrichment, and economic stability for Indian tribes through employment in resource management occupations;

(10) Indian tribal governments retain sovereign governmental authority and jurisdiction to regulate hunting and fishing activities on tribal lands as well as governmental authority to regulate the hunting and fishing activities of tribal citizens on lands outside of reservation boundaries;

(11) Indian tribal governments serve as co-managers of fish and wildlife resources with governments of other tribes, States, and the United States, sharing management responsibilities for fish and wildlife resources pursuant to treaties and agreements with the United States, statutes, and judicial decrees;

(12) since time immemorial, Indian cultures, religious beliefs and customs have centered around their relationships with fish, wildlife and gathering resources, and Indian people have relied on these resources for food, shelter, clothing, tools and trade;

(13) Indian fish and wildlife resources are renewable and manageable natural resources that are among the most valuable tribal assets and which are vital to the well-being of Indian people;

(14) Indian lands contain millions of acres of natural lakes, woodlands, and impoundments, thousands of perennial streams, and tens of millions of acres of wildlife habitat;

(15) Indian and Alaska Native fish and wildlife programs contribute significantly to the conservation and enhancement of fish, wildlife and gathering resources, including those resources which are classified as threatened or endangered.

(16) Federal, State, and tribal fish hatcheries produce tens of millions of salmon, steelhead, walleye, and other fish species annually, benefitting both Indian and non-Indian sport and commercial fisheries in the United States and Canada, and serving Indian subsistence and ceremonial needs;

(17) Indian reservations and Alaska Native communities continue to suffer from the highest rates of unemployment in the nation, and the current economic infrastructure and capital base of many tribes and Native communities does not provide adequate support to take advantage of economic opportunities;

(18) comprehensive and improvement management of Indian fish and wildlife resources will yield greater economic returns, enhance Indian self-determination, strengthen tribal self-governance, promote employment opportunities, and improve the social, cultural, and economic well-being of Indian and neighboring communities;

(19) the United States has a responsibility to provide assistance to Indian tribes to—

(a) enable integrated management and regulation of hunting, fishing, trapping and gathering activities on tribal lands, including the protection, conservation, and enhancement of resource populations and habitats upon which the meaningful exercise of Indian rights depend;

(b) develop integrated resource management plans, cooperative management agreements, and regulations addressing hunting, fishing, trapping and gathering activities on tribal lands, including the protection, conservation, and enhancement of resource populations and habitats upon which the meaningful exercise of subsistence activities depend;

(c) maintain fish hatcheries and other facilities and structures required for the prudent management, enhancement and mitigation of fish and wildlife resources; and

(d) assist Indian tribal governments in developing and enhancing economic opportunities associated with the conservation and management of fish and wildlife resources;

(20) the United States -is committed to the goal of supporting and enhancing tribal self-government, tribal self-sufficiency and the economic development of Native commu-

nities as expressed through numerous Federal statutes; and

(21) while the existing network of Federal laws and programs provide a framework for the protection and management of Indian fish and wildlife resources, gathering resources, and the operation and maintenance of Indian fish production programs and facilities, an integrated and comprehensive approach to these programs will help to ensure the coordination of Federal agency activities with those of Indian tribal governments as well as the efficiency and effectiveness of Federal and tribal government programs.

#### SEC. 102. PURPOSES.

The purposes of this Act are—

(1) to reaffirm and protect Indian hunting, fishing, trapping and gathering rights, and to provide for the conservation, prudent management, enhancement, orderly development and wise use of the resources upon which the meaningful exercise of Indian tribal rights depend;

(2) to enhance and maximize tribal capability and capacity to meaningfully participate in managing fish and wildlife resources for the continuing benefit of Indian people, and in co-managing shared resources for the benefit of the Nation, in a manner consistent with the exercise of tribal hunting, fishing, trapping and gathering rights and the United States' trust responsibility to protect the rights reserved by Indian tribes in treaties with the United States and tribal resources;

(3) to support the Federal policy of Indian self-determination and tribal self-governance by authorizing and encouraging government-to-government relations and cooperative agreements amongst Federal, State, local and tribal governments, as well as international agencies and commissions responsible for multi-jurisdictional decision-making regarding fish and wildlife resources;

(4) to authorize and establish an Indian Fish Hatchery Assistance Program that may be administered by Indian tribal governments to address Indian hatchery needs and fulfill tribal co-management responsibilities;

(5) to authorize and establish an Indian Fish and Wildlife Resource Management Education Assistance and Cooperative Research Unit Program to promote and develop full tribal technical capability and competence in managing fish and wildlife resource programs and to authorize the Secretary of the Interior, the Secretary of Commerce, the Secretary of Agriculture and other Federal agencies to enter into cooperative agreements with Indian tribal governments and tribal organizations, colleges, universities and nonprofit organizations for the administration of tribal fish and wildlife cooperative research units;

(6) to establish a buffalo conservation and management program; and

(7) to authorize and establish an Indian Seafood and Resource Marketing Assistance Program within the Department of Commerce, to provide assistance to and support for the efforts of tribal governments to develop and enhance domestic and international markets for seafood, seafood products, and other natural resources.

#### SEC. 103. DEFINITIONS.

For purposes of this Act—

(1) The term "Bureau" means the Bureau of Indian Affairs within the U.S. Department of the Interior.

(2) The term "ceded territory" means land ceded by an Indian tribe or tribes in a treaty with the United States upon which the tribe or tribes retain hunting, fishing and gathering rights.

(3) The terms "co-management" or "cooperative management" mean a process involving two or more governments or governmentally-chartered entities jointly exercising their respective jurisdiction over or

responsibilities for the management or use of a fish or wildlife resource during some phase of the life cycle of that resource.

(4) The term "cooperative agreement" means a written agreement entered into by two or more governments or parties agreeing to work together to actively protect, conserve, enhance, restore or otherwise manage fish and wildlife resources.

(5) The term "Indian fish hatchery" means any single-purpose or multi-purpose facility in which the spawning, hatching, rearing, holding, caring for or stocking of fish takes place including related research and diagnostic fish health facilities, and which is—

(A) owned or operated by an Indian tribal government, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service on Indian lands;

(B) owned or operated by any government agency pursuant to Federal statute and has as one of its purposes the mitigation, compensation, restoration or recovery of fish resources subject to reserved tribal treaty rights and for which an Indian tribe has entered into a cooperative agreement or for which an Indian tribe has petitioned the administering agency to enter into a cooperative agreement for the co-management of fish resources;

(C) owned or operated by a State government or a State institution of higher education, and for which an Indian tribe or tribes have entered into a cooperative management agreement.

(6) The term "fish hatchery maintenance" means work that is required at periodic intervals to prolong the life of a fish hatchery, hatchery components and associated equipment, in order to prevent the need for premature replacement or repair.

(7) The term "fish hatchery rehabilitation" means non-cyclical work that is required to address the physical deterioration and functional obsolescence of a fish hatchery building, structure or other facility component, or to repair damage, or to repair damage resulting from aging, natural phenomena and other causes, including work to repair, modify, or improve facility components to enhance their original function, the application of technological advances, and the replacement or acquisition of capital equipment, such as, among others, fish distribution tanks, vehicles, and standby generators.

(8) The term "forest land management activity" has the same meaning given to such term in section 304(4) of the Indian Forest Resources Management Act (25 U.S.C. 3103(4)).

(9) The term "Indian" means a member of an Indian tribe as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(10) The term "Indian fish and wildlife organization" means a commission, authority or other entity chartered by one or more Indian tribal governments for the purpose of representing or coordinating tribal interests in pursuing resource management or rights protection goals and strategies.

(11) The term "Indian fish and wildlife" means any species of animal or plant life for which Indians have a right to fish, hunt, trap, or gather for subsistence, ceremonial, recreational or commercial purposes, or for which an Indian tribal government has management or co-management responsibilities.

(12) The term "Indian lands" means all land within the limits of any Indian reservation which is held in trust by the United States, a former Indian reservation in the State of Oklahoma, dependent Indian communities within the borders of the United States whether within or without the limits of a state, and all Indian allotments for which there is a restriction against alienation.

(13) The term "Indian reservation" means any reservation of land for an Indian tribe established pursuant to treaties, Acts of Congress or Executive Orders, public domain Indian allotments, former Indian reservations in Oklahoma, and dependent Indian communities within the borders of the United States whether within or without the limits of a state.

(14) The term "Indian tribe" means an Indian tribe as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(15) The term "integrated resource management plan" means a plan developed pursuant to the process used by a tribal government to assess resources and to identify comprehensive management objectives including the quality of life, production goals and landscape descriptions of all designated resources that may include, but are not limited to, water, fish, wildlife, forestry, agriculture, minerals, recreation, community and municipal resources, and may include tribal codes and plans related to such resources.

(16) The term "regional resource management areas" means those areas in which an Indian tribal government as a right to fish, hunt, gather or trap for subsistence, ceremonial or commercial purposes, or in which an Indian tribal government has management or co-management responsibilities.

(17) The term "reserved rights" means those rights and authorities of an Indian tribal government retained by the Indian tribe in treaties with the United States, including the right to continue to harvest natural resources within ceded lands and customary use areas and the access necessary to exercise those rights.

(18) The term "resource management activities" means all activities performed in managing tribal fish, wildlife, gathering, and related outdoor recreation and resources, including but not limited to—

(A) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat mitigation, enhancement, rehabilitation and restoration projects and programs, harvest management, and use studies;

(B) the development and implementation of surveys, inventories, geographic information system programs, and integrated resource management plans for Indian lands, regional resource management areas or traditional use areas;

(C) fish production and hatchery management;

(D) the development, implementation, and enforcement of tribal fish and wildlife codes, ordinances and regulations;

(E) the development of tribal conservation programs, including employment and training of tribal conservation enforcement officers;

(F) judicial services;

(G) public use and information management and general administration; and

(H) participation in joint or cooperative management of fish and wildlife resources on a regional basis with Federal, State, tribal, local or international authorities.

(19) The term "Secretary" means the Secretary of the U.S. Department of the Interior.

(20) The term "seafood" means any plant or animal that may be gathered, collected, or harvested in marine or fresh water.

(21) The term "traditional use area" means lands that Indian tribes and their members have historically, culturally, and geographically used for spiritual, social, political, economic or sustenance purposes.

(22) The term "tribal co-management" means the sharing of decision-making, resource information, and management responsibilities with one or more governments in local, regional, national and international fish and wildlife resource management processes.

(23) The term "tribal government" means the governing body of an Indian tribe.

(24) The term "tribal organization" has the meaning given to such term in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b), including tribal fish and wildlife organizations.

## TITLE II—TRIBAL FISH AND WILDLIFE PROGRAMS

### TRIBAL MANAGEMENT OF INDIAN FISH, WILDLIFE, AND GATHERING RESOURCES

#### SEC. 201. MANAGEMENT OBJECTIVES.

(a) Consistent with provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), the Secretary shall support tribal administration of Indian fish and wildlife resource management activities to achieve the following objectives—

(1) to carry out the government-to-government relationship between Indian tribal governments and the United States in the management of Indian fish and wildlife resources;

(2) to protect Indian hunting, fishing, and gathering rights reserved by Indian tribe in treaties with the United States, or guaranteed to Indian tribes by the United States through statute, Executive Order or court decree;

(3) to provide for the development and enhancement of the capacities of Indian tribal governments to manage Indian fish and wildlife resources;

(4) to protect, conserve and enhance Indian fish and wildlife resources that are important to the subsistence, cultural enrichment, and economic development of Indian communities;

(5) to promote the development and use of Indian fish and wildlife resources for the maximum benefit of Indian people, by managing tribal resources in accordance with tribally-developed integrated resource management plans which provide for the comprehensive management of all natural resources;

(6) to selectively develop and increase production of certain fish and wildlife resources;

(7) to support the inclusion of tribal co-management or cooperative activities in local, regional, national or international decision-making processes and forums; and

(8) to develop and increase the production of fish, wildlife and gathering resources so as to better meet tribal subsistence, ceremonial, recreational and commercial needs.

#### (b) MANAGEMENT PROGRAM.—

(1) In order to achieve the objectives set forth in subsection (a), the Secretary, in full consultation with Indian tribal governments and tribal organizations, shall establish the Tribal Fish and Wildlife Resource Management Program which shall be administered consistent with the provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.);

(2) The Secretary shall promote tribal management of tribal fish, wildlife, trapping and gathering resources, and implementation of this Act, through contracts, cooperative agreements, or grants under the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), or other Federal laws;

(3) Upon the request of an Indian tribal government or tribal organization, the Secretary shall enter into a contract, cooperative agreement, or a grant under the Indian



Self-Determination and Educational Assistance Act with the tribal government or tribal organization to plan, conduct, or administer any program of the Department of the Interior, or portion thereof, which affects tribal fish and wildlife resources and which is currently administered by the Secretary without regard to the agency or office of the Department of the Interior or the organizational level within the Department.

(4) Upon the request of an Indian tribal government or tribal organization, the Secretary shall enter into a cooperative agreement with the tribal government or tribal organization to address management issues affecting tribal fish and wildlife resources.

(c) **MANAGEMENT ACTIVITIES.**—Tribal fish and wildlife resource management activities carried out under the program established in subsection (b) may include, but shall not be limited to—

(1) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat mitigation, enhancement, rehabilitation and restoration projects and programs, harvest management, and use studies;

(2) the development and implementation of integrated resource management plans for tribal lands or regional resource management areas, surveys, and inventories;

(3) fish production and hatchery management;

(4) the development, implementation, and enforcement of tribal fish and wildlife codes, ordinances, and regulations;

(5) the development of tribal conservation programs, including employment and training of tribal conservation enforcement officers;

(6) judicial services;

(7) public use and information management and general administration; and

(8) participation in joint or cooperative management office and wildlife resources on a regional basis with Federal, State, tribal, and local or international authorities.

(d) **SURVEY AND REPORT.**—

(1) Upon the request of an Indian tribal government, the Secretary shall cause to be conducted a survey for the reservation of that tribal government, which shall include but not be limited to—

(A) a review of existing tribal codes, ordinances, and regulations governing the management office and wildlife resources;

(B) an assessment of the need to update and revise tribal codes, ordinances, and regulations governing tribal fish and wildlife resource protection and use;

(C) a determination and documentation of the needs for tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer tribal fish and wildlife resources management programs;

(D) an assessment of the need to provide training to and develop curricula for tribal fish and wildlife resource personnel, including tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer tribal fish and wildlife resource management programs;

(E) an assessment of the need for training of Federal agency staff in matters pertaining to Federal-tribal relations and the significance of fish and wildlife to tribal communities;

(F) an assessment of the effects of Federal resource management activities on tribal fish and wildlife resources; and

(G) a determination and documentation of the condition of tribal fish and wildlife resources.

(2) The Secretary is authorized to enter into contracts or provide grants to Indian tribal governments or tribal organizations under the authority of the Indian Self-Deter-

mination and Educational Assistance Act for the purpose of carrying out the survey.

(3) Within one year of the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of the survey conducted under the authority of subsection (1) of this section.

(e) **TRIBAL FISH AND WILDLIFE RESOURCE MANAGEMENT PLANS.**—

(1) In order to fulfill the management objectives set forth in subsection (a), a tribal fish and wildlife resource management plan shall be developed and implemented in the following manner—

(A) pursuant to a self-determination contract or self-governance compact under the authority of the Indian Self-Determination and Education Assistance Act, an Indian tribal government may develop or implement a tribal fish and wildlife management plan.

(B) Subject to the provisions of subparagraph (C), the tribal government shall have broad discretion in designing and carrying out the planning process.

(C) If a tribal government elects not to contract for the development or implementation of a tribal fish and wildlife management plan, the Secretary shall develop and implement the plan in consultation with the affected tribal government.

(D) Whether developed directly by the tribal government or by the Secretary, the plan shall—

(i) determine the condition of fish and wildlife resources and habitat conditions;

(ii) identify specific tribal fish and wildlife resources goals and objectives;

(iii) establish management objectives for fish and wildlife resources;

(iv) define critical values of the tribal government and its members and provide for comprehensive management objectives;

(v) be developed through public meetings;

(vi) use the public meeting records, existing survey documents, reports, and other research from Federal agencies and tribal colleges, state or community colleges, or other tribal education or research institutions; and

(vii) be completed within three years of the initiation of activity to establish the plan.

(2) Tribal fish and wildlife management plans developed and approved under this section shall govern the management and administration of tribal fish and wildlife resources by the Bureau of Indian Affairs and the Indian tribal government.

(f) **TRIBAL MANAGEMENT IN REGIONAL RESOURCE MANAGEMENT AREAS.**—

(1) **REVIEW.**—To achieve the objectives set forth in section 210(a), the Secretary and the Secretaries of Commerce and Agriculture shall review existing programs involving the multi-jurisdictional management of fish, wildlife and gathering resources in regional resource management areas, for the purpose of determining the need for Indian representation, program adequacy and staffing needs to appropriately represent the interests of member tribes.

(2) **CONTRACTS OR GRANTS.**—The Secretary is authorized to enter into contracts or provide grants to Indian tribal governments or tribal organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of completing this review.

(3) **REPORT.**—Within one year of the date of enactment of this Act, the Secretary, in consultation with the Secretaries of Commerce and Agriculture, shall submit a report to the Congress based upon the review conducted under subsection (1) of this section assessing fish and wildlife program adequacy and staff needs, and the condition of fish and wildlife resources in regional resource management areas.

(g) **ASSISTANCE.**—The Secretary is authorized to provide financial and technical as-

sistance to enable Indian tribal governments to—

(1) update and revise tribal codes, ordinances, and regulations governing tribal fish and wildlife resource protection and use;

(2) employ tribal conservation officers, tribal fisheries and wildlife biologists, and other professionals to administer Indian fish and wildlife resource management programs;

(3) providing training for tribal fish and wildlife resource personnel including tribal conservation officers under a curriculum that incorporates law enforcement, fish and wildlife conservation, identification and resource management principles and techniques; and

(4) enable tribal governments and tribal conservation agencies to enter into cooperative law enforcement agreements, which may include provisions for additional training and cross-deputization of tribal law enforcement staff, with local, state and Federal jurisdiction for the enforcement of laws and regulations pertaining to fish and wildlife resources.

(h) **FEDERAL ACTIVITIES.**—

(1) **CONSULTATION AND COORDINATION.**—In conducting management activities under their respective authorities, the Secretary, in coordination with the Secretaries of Commerce and Agriculture, shall—

(A) consult with and seek the participation of Indian tribal governments on matters affecting tribal fish and wildlife resources in a manner consistent with the United States' trust responsibility and the government-to-government relationship between Indian tribal governments and the United States;

(B) ensure that Federal agency staff are adequately trained in issues pertaining to impacts of agency actions on tribal fish and wildlife resources;

(C) investigate opportunities for Indian tribal governments to perform land management activities on Federal land which affect tribal fish and wildlife resources;

(D) develop a formal, written assessment of how Federal resource management activities are affecting tribal use of and access to tribal fish and wildlife resources;

(E) include rights reserved by tribal governments in treaties with the United States in assessments of environmental baselines.

(2) **PROTECTION OF INFORMATION.**—Notwithstanding any other provision of law, the Secretary shall not disclose, nor cause the disclosure of any information conveyed to an agency under the Secretary's administrative responsibilities pursuant to this Act to any person, party, or entity, including other Federal agencies, that is made available to the Secretary by an Indian tribal government or a member of an Indian tribe and which is—

(A) related to the administration of the United States' trust responsibility for Indian lands and resources; and

(B) declared by the tribal government or individual member of an Indian tribe to be culturally-sensitive, proprietary, or in any manner confidential.

(3) **FEES AND ACCESS.**—Upon the request of an Indian tribal government, the Secretary and the Secretary of Agriculture are authorized to—

(A) provide fish and wildlife resources to an Indian tribal government from Federal lands administered by agencies under their respective administrative responsibility without permit or charge to the Indian tribe having an historical relationship to such lands, so long as—

(i) an agreement is entered into between the Indian tribal government and the Secretary or Secretary of Agriculture which contains sufficient information and conditions regarding the location, quantity, timing, and methods associated with the provision of fish and wildlife resources to ensure

compatibility with applicable agency management plans; and

(ii) the request does not adversely affect the ability of the agency to carry out its responsibilities under the applicable management plan;

(B) provide access to Federal lands under their respective administrative responsibility for tribal traditional cultural or customary purposes without permit or fee;

(C) temporarily close to general public use, one or more specific portions of Federal lands under their respective administrative responsibility in order to protect the privacy of the activities referenced in subsection (B), provided that any such closure shall be limited to the smallest practicable area for the minimum period necessary in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act (42 U.S.C. 1996);

(4) EFFECT ON EXISTING RIGHTS.—Nothing in this section shall be construed to limit, modify, or amend existing rights of any Indian tribal government under treaty, statute or other agreement to access and use fish and wildlife resources.

## SEC. 202. EDUCATION IN TRIBAL FISH AND WILDLIFE RESOURCE MANAGEMENT.

(a) COOPERATIVE RESEARCH AND TRAINING PROGRAM.—

(1) The Secretary, the Secretary of Agriculture, the Secretary of Commerce, or other Federal agencies as appropriate, are authorized to enter into cooperative agreements with colleges and universities, tribal community colleges, Indian tribal governments and tribal organizations, and with nonprofit organizations, for the establishment of cooperative research and training units.

(2) In order to facilitate the full development of research and training units and to support the educational objectives of this title, the Secretary, and the Secretaries of Agriculture and Commerce, as well as other Federal agencies, shall—

(A) assign appropriate scientific personnel to serve at the cooperative unit, through the agreement of the cooperating parties;

(B) apply Indian preference in hiring policies;

(C) provide financial assistance, including reasonable compensation, for the work of researchers on fish and wildlife ecology and resource management projects funded under this Act or other authorizing legislation;

(D) supply equipment for the use of cooperative unit operations;

(E) provide for the incidental expenses of Federal personnel and employees of cooperating tribal governments and tribal organizations associated with cooperative units; and

(F) integrate cooperative research unit programs with the training and educational opportunities and programs of Indian community colleges to the greatest extent possible.

(b) SCHOLARSHIP PROGRAM.—

(1) The Secretary is authorized to provide natural resource management scholarships to Indians enrolled as full-time students in accredited programs for post-secondary and graduate natural resource management related fields of study;

(2) A natural resource management scholarship recipient shall be required to enter into an obligated service agreement in which the recipient agrees to accept employment, following the completion of the recipient's course of study, with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service for one year for each year the recipient receives scholarship assistance.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic

achievement if the applicant has been admitted to and remains in good standing in an accredited post-secondary or graduate institution.

(c) FISH AND WILDLIFE EDUCATION OUTREACH.—The Secretary shall conduct, with the full and active participation of Indian tribal governments, a natural resource education outreach program to explain and stimulate interest in all aspects of tribal natural resource management and to generate interest in natural resource management careers, such as fisheries or wildlife biologists or in natural resource management.

(d) POSTGRADUATE RECRUITMENT.—The Secretary shall establish and maintain a program to attract professional Indian fish and wildlife biologists, as well as professionals in other natural resource management fields, who have graduated from post-secondary institutions or graduate schools for employment by Indian tribal governments, tribal organizations, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service, in exchange for the Secretary's assumption of all or a portion of the professional's outstanding educational loans, depending upon the period of employment.

(e) FISH AND WILDLIFE BIOLOGIST INTERN PROGRAM.—

(1) The Secretary shall, with the full and active participation of Indian tribal governments, establish a Fish and Wildlife Resources Intern Program for at least 20 Indian fish and wildlife resources intern positions.

(A) Intern positions shall be in addition to the forester intern positions authorized in section 314(a) of the National Indian Forest Resources Management Act (25 U.S.C. 3113(a)).

(B) Individuals selected to participate in the intern program shall be enrolled full-time in approved post-secondary institutions or graduate schools in curricula leading to advanced degrees in natural resource management-related fields.

(C) The Secretary shall pay all costs of tuition, books, fees, and living expenses incurred by Indian interns in natural resource management programs while attending approved study programs.

(D) An Indian fish and wildlife resources intern shall be required to enter into an obligated service agreement to serve in a professional fish or wildlife resources management-related capacity with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or a U.S. Fish and Wildlife Service program serving tribal fish and wildlife resources management objectives, for one year for each year of education for which the Secretary assumes the intern's educational costs under subsection (2).

(E) An Indian fish and wildlife resources intern shall be required to report for service to the employing entity during any break in the intern's course of study of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service.

(f) COOPERATIVE EDUCATION PROGRAM.—

(1) The Secretary shall maintain a cooperative education program for the purpose of recruiting promising Indian students who are enrolled in secondary schools, tribal colleges, community colleges, and other post-secondary institutions or graduate schools for employment as professional fisheries or wildlife biologists or other resource management related professional positions with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or with the U.S. Fish and Wildlife Service serving or benefitting Indian lands.

(2) The Secretary shall pay all costs for tuition, books, and fees of an Indian student who is enrolled in a course of study at an educational institution with which the Sec-

retary has entered into a cooperative agreement, and who is interested in pursuing a career with an Indian tribal government, tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service serving or benefitting Indian lands.

(3) Financial need shall not be a requirement to receive assistance under the program authorized in paragraph (1).

(4) A recipient of assistance under the program authorized in paragraph (1) shall be required to enter into an obligated service agreement to serve as professional fish or wildlife biologist or other resource management related professional with an Indian tribal government, a tribal organization, the Bureau of Indian Affairs, or the U.S. Fish and Wildlife Service, for one year for each year that the Secretary assumes the recipient's educational costs pursuant to paragraph (2).

(g) PUBLIC EDUCATION REGARDING TRIBAL FISH AND WILDLIFE RESOURCES.—

(1) The Secretary is authorized to establish within the Secretary's office the position of Tribal Education Coordinator to—

(A) enhance communications between Indian tribal governments and the United States relating to the management of tribal fish and wildlife resources or the role of tribal governments in the co-management of fish and wildlife resources;

(B) implement a program to educate the public about the sovereign status of Indian tribal governments and the rights reserved by tribal governments in treaties with the United States, as well as the benefits of constructive relations among tribal governments, state and local governments, and Federal agencies;

(2) The responsibilities and duties of the Tribal Education Coordinator shall include—

(A) the development of an educational program for local and state governments and Federal agencies regarding the United States' obligations to support and implement treaties, statutes, executive orders and court decrees related to the management of fish and wildlife resources;

(B) encouraging Federal agencies and state governments to establish and pursue cooperative and collaborative government-to-government relationships with Indian tribal governments in the management of natural resources; and

(C) providing reports to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives by September 30th of each year on the progress of the Tribal Education Coordinator in carrying out these activities.

(h) ADEQUACY OF PROGRAMS.—The Secretary shall provide administrative oversight of the programs described in this section until a sufficient number of Indian personnel are available to administer tribal fish and wildlife resource management programs on tribal lands and resource management areas.

(i) OBLIGATED SERVICE; BREACH OF CONTRACT.—

(1) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this section, the Secretary shall promulgate such regulations as are necessary to provide for an offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(2) BREACH OF CONTRACT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided to the individual by the Secretary, pro rated for the

amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury.

#### SEC. 203. TRIBAL FISH HATCHERY ASSISTANCE PROGRAM.

(a) PROGRAM.—The Secretary, in consultation with the Secretary of Commerce, and with the full and active participation of Indian tribal governments, shall establish and administer a Tribal Fish Hatchery Assistance program for the production and distribution of fish of the species, strain, number, size, and quality to assist Indian tribal governments to develop tribal hatcheries and enhance fishery resources on tribal lands to meet tribal resource needs, including but not limited to tribal subsistence, ceremonial and commercial fishery needs.

(b) REPORT.—Within one year of the date of enactment of this Act, the Secretary, in consultation with the Secretary of Commerce, and with the full and active participation of Indian tribal governments, shall submit a report to the Congress which shall—

(A) identify the facilities that comprise the Tribal Fish Hatchery Program;

(B) the maintenance, rehabilitation and the construction needs of such facilities;

(C) identify criteria and procedures to be used in evaluating and ranking fish hatchery maintenance and rehabilitation project proposals submitted by Indian tribal governments; and

(D) provide a plan for the administration and cost-effective operation of the Tribal Fish Hatchery Assistance Program.

(c) CONTRACTS.—The Secretary, and the Secretary of Commerce, are authorized to enter into a contract or annual funding agreement under the authority of the Indian Self-Determination and Educational Assistance Act with an Indian tribal government to plan, conduct and administer the Tribal Fish Hatchery Program, or any portion of the Program.

(d) FISH HATCHERY OPERATING AGREEMENTS.—Upon the petition of an Indian tribal government or a tribal organization seeking to co-manage a facility or complex of facilities, the Secretary, and the Secretary of Commerce, are authorized to enter into agreements with entities owning or operating hatcheries defined under section 103(5)(B) of this Act and an Indian tribal government or tribal organization which provides for the manner in which each hatchery facility is to be operated so as to mitigate or recover tribal fish resources subject to rights reserved by the tribal government in treaties with the United States.

#### TITLE III—ALASKA NATIVE FISH AND WILDLIFE PROGRAMS

##### SEC. 301. DEFINITIONS.

For purposes of this title—

(1) The term “Alaska Native” means a citizen of the United States who is a person of one fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community) Eskimo, or Aleut blood, or combination thereof, including, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is, or, if deceased, was regarded as an Alaska Native by any village or group, as defined in section 1602(b) of the Alaska Native Claims Settlement Act.

(2) The term “Native village” means “any tribe, band, clan, group, village, community, or association in the State of Alaska listed in sections 1610 and 1615 of this title, and

which the Secretary determines was, on the 1970 census enumeration date, composed of twenty-five or more Natives” as defined in section 1602(c) of the Alaska Native Claims Settlement Act.

(3) The term “Regional Corporation” means an Alaska Native Regional Corporation established under the laws of the State of Alaska as defined in section 1602(g) of the Alaska Native Claims Settlement Act.

(4) The term “Village Corporation” means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or non-profit corporation to hold, invest, manage, and/or distribute lands, property, funds, and other rights and assets for and in behalf of a Native Village as defined in section 1602(j) of the Alaska Native Claims Settlement Act.

(5) The term “Alaska Native fish and wildlife organization” means a commission, authority or other entity chartered for the primary purpose of assisting in the development of tribal natural resource management capacity and technical capabilities.

#### SEC. 302. MANAGEMENT OF ALASKA NATIVE TRIBAL GOVERNMENT INDIAN FISH AND WILDLIFE RESOURCE MANAGEMENT PROGRAMS IN ALASKA.

(a) MANAGEMENT OBJECTIVES.—Consistent with provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), the Secretary shall support tribal administration of Indian fish and wildlife resource management activities to achieve the following objectives:

(1) to carry out the government-to-government relationship between Indian tribal governments and the United States in the management of Indian fish and wildlife resources;

(2) to provide for the development and enhancement of the capacity of Indian tribal governments to participate in management of Indian fish and wildlife resources;

(3) to protect, conserve and enhance Indian fish and wildlife resources;

(4) to promote the development and use of Indian fish and wildlife resources for the maximum benefit of Alaska Native people, by managing Indian fish and wildlife resources in accordance with tribally-developed integrated resource management plans which provide for the cooperative management of all natural resources within tribal lands;

(5) to selectively develop and increase production of certain Indian fish and wildlife resources;

(6) to support the inclusion of Alaska Native tribal co-management or cooperative activities in local, regional, state, national or international decision-making processes and forums; and

(7) to develop and increase the production of fish, wildlife and gathering resources so as to better meet Alaska Native subsistence, ceremonial, recreational and commercial needs.

(b) MANAGEMENT PROGRAM.—

(1) In order to achieve the objectives set forth in subsection (a), the Secretary, in full consultation with Indian tribal governments and Alaska Native fish and wildlife organizations, shall establish the Alaska Native Fish and Wildlife Resource Management Program which shall be administered consistent with the provisions of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.);

(2) The Secretary shall promote meaningful Indian tribal government involvement in the management of Indian fish and wildlife resources, and implementation of this Act, through contracts, compacts, cooperative agreements, or grants under the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b et seq.), or other Federal laws;

(3) Upon the request of an Indian tribal government or Alaska Native fish and wildlife organization, the Secretary shall enter into a contract, compact, cooperative agreement, or a grant under the Indian Self-Determination and Educational Assistance Act with the Indian tribal government or Alaska Native fish and wildlife organization to plan, conduct, or administer any program of the Department of the Interior, or portion thereof, which affects Indian fish and wildlife resources, and which is currently administered by the Secretary without regard to the agency or office of the Department of the Interior or the organizational level within the Department.

(4) Upon the request of an Indian tribal government or Alaska Native fish and wildlife organization, the Secretary shall enter into a cooperative agreement with the tribal government or Alaska Native fish and wildlife organization to address management issues affecting Indian fish and wildlife resources.

(c) MANAGEMENT ACTIVITIES.—Indian fish and wildlife resource management activities carried out under the program established in subsection (b) may include, but shall not be limited to:

(1) the conduct of fish and wildlife population and life history investigations, habitat investigations, habitat mitigation, enhancement, rehabilitation and restoration projects and programs, harvest management, and use studies;

(2) the development and implementation of integrated resource management plans for tribal lands or traditional use areas;

(3) fish and other aquatic species production and hatchery management;

(4) the development, implementation, and enforcement of Indian tribal government fish and wildlife codes, ordinances, and regulations;

(5) the development of Indian tribal government conservation programs, including employment and training of tribal conservation enforcement officers;

(6) judicial services;

(7) public use and information management and general administration; and

(8) participation in joint or cooperative management of fish and wildlife resources on a regional basis with Federal, State, tribal, and local or international authorities.

(d) SURVEY AND REPORT.—

(1) Upon the request of an Indian tribal government, the Secretary shall cause to be conducted a survey of the traditional use area of that tribal government, which shall include but not be limited to:

(A) a review of existing Indian tribal government codes, ordinances, and regulations governing their members and others in relation to the management of Indian fish and wildlife resources;

(B) an assessment of the need to update and revise Indian tribal government codes, ordinances, and regulations governing Indian fish and wildlife resource protection and use;

(C) a determination and documentation of the needs for tribal conservation officers, tribal fisheries and wildlife biologists, tribal fisheries and wildlife technicians, and other professionals to administer and implement Indian fish and wildlife resources management programs;

(D) an assessment of the need to provide training to and develop curricula for tribal fish and wildlife resource personnel, including tribal conservation officers, tribal fisheries and wildlife biologists, tribal fisheries and wildlife technicians, and other professionals to administer and implement tribal fish and wildlife resource management programs. Such curricula shall include the incorporation of traditional ecological knowledge as well as the traditional;

(E) an assessment of the need for training of Federal agency staff in matters pertaining to the relations between the United States and Indian tribes and the significance of Indian fish and wildlife to Native villages;

(F) an assessment of the effects of Federal and state resource management activities on Indian fish, and wildlife resources; and

(G) a determination and documentation of the condition of those Indian fish and wildlife resources.

(2) The Secretary is authorized to enter into contracts, compacts, or provide grants to Indian tribal governments or Alaska Native fish and wildlife organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of carrying out the survey.

(3) Within one year of the date of enactment of this Act, the Secretary shall submit to the Congress a report on the results of the survey conducted under the authority of subsection (1) of this section.

#### (e) INDIAN FISH AND WILDLIFE RESOURCE MANAGEMENT PLANS.—

(1) In order to fulfill the management objectives set forth in subsection (a), an Indian fish and wildlife resource management plan shall be developed and implemented in the following manner:

(A) pursuant to a self-determination contract or self-governance compact under the authority of the Indian Self-Determination and Education Assistance Act, an Indian tribal government or an Alaska Native fish and wildlife organization may develop or implement an Indian fish and wildlife management plan.

(B) Subject to the provisions of subparagraph (C), the Indian tribal government shall have broad discretion in designing and carrying out the planning process.

(C) If an Indian tribal government elects not to contract for the development or implementation of a tribal fish and wildlife management plan, the Secretary shall develop and implement the plan in consultation with the affected tribal government.

(D) Whether developed directly by the tribal government or by the Secretary, the plan shall—

(i) determine the condition of Indian fish and wildlife resources and habitat conditions;

(ii) identify specific Indian fish and wildlife resources goals and objectives;

(iii) establish cooperative management objectives for Indian fish and, wildlife resources;

(iv) define critical values of the Indian tribal government and its members and provide for comprehensive management objectives;

(v) be developed through a public meeting process;

(vi) apply the public meeting records, existing survey documents, reports, and other research from Federal and state agencies, community colleges, or other education or research institutions; and

(vii) be completed within three years of the initiation of activity to establish the plan.

(2) A Indian fish and wildlife management plans developed and approved under this section shall govern the management and administration of Indian fish and wildlife resources by the Bureau of Indian Affairs and the tribal government.

#### (f) TRIBAL MANAGEMENT IN TRADITIONAL USE AREAS.—

(1) REVIEW.—To achieve the objectives set forth in section 302(a), the Secretary and the Secretaries of Commerce and Agriculture shall review existing programs involving the management of Indian fish and wildlife resources in the traditional use areas of Indian tribal governments, for the purpose of determining the need for the meaningful involve-

ment of tribal governments, program adequacy and staffing needs to appropriately represent the interests of tribal governments.

(B) CONTRACTS OR GRANTS.—The Secretary is authorized to enter into contracts, compacts, or provide grants to Indian tribal governments or Alaska Native fish and wildlife organizations under the authority of the Indian Self-Determination and Educational Assistance Act for the purpose of completing this review.

(C) REPORT.—Within one year of the date of enactment of this Act, the Secretary, in consultation with the Secretaries of Commerce and Agriculture, shall submit a report to the Congress based upon the review conducted under subsection (1) of this section assessing fish and wildlife program adequacy and staff needs, and the condition of Indian fish and wildlife resources in the traditional use areas of tribal governments.

(g) ASSISTANCE.—The Secretary is authorized to provide financial and technical assistance to enable Indian tribal governments to—

(1) update and revise tribal government codes, ordinances, and regulations governing Indian fish and wildlife resource protection and use;

(2) employ tribal conservation officers, tribal fisheries and wildlife biologists, tribal fish and wildlife technicians, and other professionals to administer and implement Indian fish and wildlife resource management programs;

(3) provide training for tribal fish and wildlife resource personnel including tribal conservation officers under a curriculum that incorporates law enforcement, fish and wildlife conservation, identification and resource management principles and techniques. Such curricula shall also include the incorporation of traditional ecological knowledge as well as the traditional management strategies and techniques of Alaska Native people; and

(4) enable tribal governments and Alaska Native fish and wildlife organizations to enter into cooperative law enforcement agreements, which may include provisions for additional training and cross-deputization of tribal law enforcement staff, with local, state and Federal jurisdiction for the enforcement of laws and regulations pertaining to Indian fish and wildlife resources.

#### (h) FEDERAL ACTIVITIES.—

(1) CONSULTATION AND COORDINATION.—In conducting management activities under their respective authorities, the Secretary, in coordination with the Secretaries of Commerce and Agriculture, shall—

(A) consult with and seek the participation of Indian tribal governments on all matters affecting Indian fish and wildlife resources in a manner consistent with the United States' trust responsibility.

(B) ensure that Federal agency staff are adequately trained in issues pertaining to impacts of agency actions on Indian fish and wildlife resources;

(C) investigate opportunities for Indian tribal governments to perform cooperative land management activities on Federal and other lands that affect Indian fish and wildlife resources;

(D) develop a formal, written assessment of how Federal resource management activities are affecting tribal use of and access to Indian fish and wildlife resources and the traditional use areas of Indian tribal governments;

(2) PROTECTION OF INFORMATION.—Notwithstanding any other provision of law, the Secretary shall not disclose, nor cause the disclosure of any information conveyed to an agency under the Secretary's administrative responsibilities pursuant to this Act to any

person, party, or entity, including other Federal agencies, that is made available to the Secretary by an Indian tribal government or a member of an Indian tribe and which is—

(A) related to the administration of the United States' trust responsibility for Indian lands and resources; and

(B) declared by the tribal government or individual member of an Indian tribe to be culturally-sensitive, proprietary, or in any manner confidential.

(3) FEES AND ACCESS.—Upon the request of an Indian tribal government, the Secretary and the Secretary of Agriculture are authorized to—

(A) provide fish and wildlife resources to an Indian tribal government from Federal lands administered by agencies under their respective administrative responsibility without permit or charge to the Indian tribe having an historical, cultural, or geographical relationship to such lands, so long as—

(i) an agreement is entered into between the Indian tribal government and the Secretary or Secretary of Agriculture which contains sufficient information and conditions regarding the location, quantity, timing, and methods associated with the provision of Indian fish and wildlife resources to ensure compatibility with applicable agency management plans; and

(ii) the request does not adversely affect the ability of the agency to carry out its responsibilities under the applicable management plan;

(B) provide access to Federal lands under their respective administrative responsibility for tribal traditional cultural or customary purposes without permit or fee;

(C) temporarily close to general public use, one or more specific portions of Federal lands under their respective administrative responsibility in order to protect the privacy of the activities referenced in subsection (B), provided that any such closure shall be limited to the smallest practicable area for the minimum period necessary in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act (42 U.S.C. 1996);

(4) EFFECT ON EXISTING RIGHTS.—Nothing in this section shall be construed to limit, modify, or amend existing rights of any Indian tribal government under statute or other agreement to access and use Indian fish and wildlife resources.

#### SEC. 303. ALASKA NATIVE TRIBAL GOVERNMENT SEAFOOD AND RESOURCE MARKETING ASSISTANCE PROGRAM.

(a) The Secretary of Commerce shall establish an Alaska Native Seafood and Resource Marketing Assistance Program to enable participating Indian tribal governments and Alaska Native fish and wildlife organizations to develop the necessary infrastructure and marketing systems to effectively promote their products domestically and internationally.

(b) Within one year of the date of enactment of this Act, working with participating Indian tribal governments, the Secretary of Commerce shall develop and submit a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation to provide subsidies and other Federal support, permissive taxing and coordinated training, promotions, and Alaska Native Tribal product labeling as well as other initiatives, that hold the potential to significantly enhance the ability of tribal governments to assure that fair and equitable prices are associated with seafood, bison, reindeer, muskox, yak and other produced and harvested natural resources related products.

(c) Within one year of the date of enactment of this Act, the U.S. Food and Drug Administration, in consultation with Indian

tribal governments, shall prepare a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation that would enable Indian tribal governments to be recognized as competent processing authorities as well as recommendations for the provision of technical assistance to tribal enterprises so as to ensure that seafood, buffalo, reindeer, muskox, yak, and other harvested natural resource products are safe for consumption.

#### TITLE IV—TRIBAL SEAFOOD AND RESOURCE MARKETING ASSISTANCE PROGRAM.

##### SEC. 401. ESTABLISHMENT.

(a) The Secretary of Commerce shall establish a Tribal Seafood and Resource Marketing Assistance Program to enable participating Indian tribal governments and tribal organizations to develop the necessary infrastructure and marketing systems to effectively promote their products domestically and internationally.

(b) Within one year of the date of enactment of this Act, working with participating Indian tribal government, the Secretary of Commerce shall develop and submit a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation to provide subsidies and other Federal support, permissive taxing and coordinated training and promotions, as well as other initiatives, that hold the potential to significantly enhance the ability of tribal governments to assure that fair and equitable prices are associated with harvested natural resources and seafood products.

(c) Within one year of the date of enactment of this Act, the U.S. Food and Drug Administration, in consultation with Indian tribal governments, shall prepare a report to the Committee on Indian Affairs of the U.S. Senate and the Committee on Resources of the U.S. House of Representatives, that contains recommendations for legislation that would enable Indian tribal government to be recognized as competent processing authorities as well as recommendations for the provision of technical assistance to tribal enterprises so as to ensure that seafood and other harvested natural resource products are safe for consumption.

(d) Health Issues. [to be developed]

##### SEC. 402. MARKETING DEVELOPMENT GRANTS AND LOAN PROGRAM. [to be developed]

(a) GRANTS FOR MARKET RESEARCH AND PILOT PROGRAMS.

(b) LOANS FOR INFRASTRUCTURE DEVELOPMENT.

#### TITLE V—TRIBAL BISON CONSERVATION AND MANAGEMENT [to be developed]

#### TITLE VI—MISCELLANEOUS PROVISIONS

##### SEC. 601. REGULATIONS.

Except as other provided by this Act, the Secretary shall promulgate final regulations for the implementation of this Act within 18 months of the date of enactment of this Act with the full and active participation of Indian tribal governments.

##### SEC. 602. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of the Congress that the remaining sections or provisions shall continue in full force and effect.

##### SEC. 603. SAVINGS.

(a) Nothing in this Act shall be construed to—

(1) diminish or expand the United States' trust responsibility for tribal fish and wildlife resources, or any legal obligation or remedy arising out of the United States' trust responsibility;

(2) alter, abridge, repeal, or affect any valid, existing agreement between an agency of the United States and an Indian tribal government;

(3) alter, abridge, diminish, repeal, or affect the reserved rights of any Indian tribal government established by treaty, executive order, or other applicable laws or court decrees;

#### TITLE VII—AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. CONRAD (for himself and Mr. BROWNBAC):

S. 2302. A bill to improve access to physicians in medically underserved areas; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, today I am joined by Senator BROWNBAC in introducing important legislation aimed at ensuring that our medically underserved communities have access to the doctors they need. This bill reauthorizes the popular Conrad State 30 program for 5 years, satisfies the initial intent of the program to let states decide for themselves about how best to fulfill their health care shortage needs, and clarifies existing law to ensure that Conrad State 30 waivers are exempt from the H-1B visa cap.

The Conrad State 30 J-1 visa waiver program has been a great asset over the last decade, bringing crucially-needed doctors to serve medically underserved areas throughout our country. Forty-nine states now participate in the program, accounting for 1027 doctors in 2003. Each of these doctors is serving patients that might otherwise not be served, providing valuable medical services to communities that otherwise might have to go without.

Unfortunately, today's reality is that many areas of the country, especially rural communities, have a very difficult time recruiting American doctors. These health facilities have had no other choice but to turn to foreign medical graduates. J-1 visa waivers allow foreign physicians to practice in medically-underserved communities after their J-1 status has expired without first returning to their home countries. These waivers allow foreign physicians to receive nonimmigrant, H-1B status for three years. In order to receive the waiver, the physician undergoes numerous background and security checks, and must agree to serve a medically-underserved community for three years. If he or she fails to fulfill that commitment, the physician is subject to immediate deportation.

Prior to the creation of the State 30 program, J-1 visa waivers exclusively involved finding an "interested federal agency" to coordinate the request. This was found to be a long, cumbersome, and bureaucratic process. By allowing states to directly participate in the process of obtaining waivers, the program relieves some of the burdens on participating Federal agencies and allows decisions regarding a state's

health care needs to be made at the state level by the people who know best. Since 1994, the program has been reauthorized a number of times; the most recent reauthorization expires in June 2004.

The bill Senator BROWNBAC and I introduce today contains 3 parts. First and foremost, it contains a 5-year reauthorization. Five years is a reasonable amount of time for Congress to be able to reassess the physician needs of the country and to take appropriate steps in the course of an additional reauthorization.

Second, consistent with the original intent of the Conrad State 30 program to provide states flexibility, the bill would allow states to decide for themselves where their health care shortages are and how best to use their 30 spots. Currently, states can only place these doctors in shortage areas as designated by the Federal government. States, however, can and should be able to make these decisions for themselves. Instead of Washington, DC, telling a state where there is a physician shortage, a state under this bill could do so for itself.

Third, the bill erases any ambiguity about whether Conrad State 30 doctors are exempt from the H-1B visa cap. Through legislation in the 106th Congress, Conrad State 30 waivers were specifically exempted from the H-1B visa cap. Unfortunately, there is now ambiguity about whether this provision still applies. Our current bill clarifies the original intent of this previous legislation, clearly making Conrad State 30 doctors exempt.

In concluding, I want to thank Senator BROWNBAC for his help and support in developing this bill. Our bill is a modest one; it is limited and it is targeted. However, this does not diminish the importance of retaining and improving the Conrad State 30 program. The vitality of hundreds of communities and, most importantly, the health of thousands of patients across our country depend on it. I urge my colleagues to support this legislation.

By Mr. EDWARDS:

S.J. Res. 31. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the Comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EDWARDS:

S.J. Res. 32. A joint resolution to provide for Congressional disapproval of certain regulations issued by the Office of the comptroller of the Currency, in accordance with section 802 of title 5, United States Code; to the Committee on Banking, Housing, and Urban Affairs.

Mr. EDWARDS. Mr. President, I rise today to introduce two joint resolutions to fight predatory mortgage lending. The resolutions would strike down the Office of the Comptroller of the Currency's recent regulations that put millions of families in the sights of predatory lenders.

The middle class—the foundation of our country—is sinking. In the last generation, families have gone from saving for the future to borrowing just to get by. Home foreclosure rates have tripled in the last 25 years. This year, more middle-class children will see their parents declare bankruptcy than will see their parents get divorced.

Working families are vulnerable. They cannot save because they must spend more for housing, health care, child care, and college tuition. These expenses are not luxuries. They are the necessities. Without savings, a bump in the road—a lost job or sudden illness—could become the end of the road.

There is a lot of work to be done to help families get ahead and build a secure future. The legislation I am introducing today deals with just one aspect of the problem, but it is an important one: the fight against predatory mortgage lenders.

There are mortgage companies that cheat people, plain and simple. Excessive fees leave families on a treadmill, forcing them to make large mortgage payments while draining the wealth they have saved in their home. Many families lose their home altogether. All told, predatory lending costs homeowners an estimated \$9 billion a year.

I am proud that my State of North Carolina is a leader in fighting predatory lending. The strong law it passed in 1999 is saving consumers \$100 million a year, while mortgage credit remains widely available.

Unfortunately, the Federal Government is not doing as well. In fact, we are losing ground. In January, the Office of the Comptroller of the Currency in the U.S. Department of the Treasury issued new regulations exempting national banks—which hold more than half of bank assets—from State predatory lending laws.

Strong consumer protection laws have been States' responsibility for more than a century. The new rules ignore that tradition, which has served our country well, to create a safe haven for predatory lenders in national banking law. They also create an incentive for State-chartered banks to escape tough laws by converting to national banks.

The resolutions that I am introducing today would strike down the OCC rules that preempt State law. It would restore States' ability to enforce their predatory lending laws within their boundaries and protect their homeowners against abusive loans.

These protections are badly needed. About half of subprime borrowers are paying extra interest and fees, when they qualify for better rates. That's hundreds of thousands of Americans who are each paying thousands of dollars more than they should for their homes. Even worse, some families see their loans refinanced again and again, their equity diminished time and again, until one day they lose their home.

It is offensive, but predatory lenders target African-American and other mi-

nority communities. If you are an upper-income African-American family, you are twice as likely to get a subprime loan than a lower-income white family is. Think about that: even though you are doing better, you get a worse loan if you are African-American.

That is dead wrong. We need a strong national law to fight predatory lending. We don't need a prohibition of the strong State laws now on the books with weak national rules. I urge my colleagues to support these resolutions.

I ask unanimous consent that the text of the resolutions be printed in the RECORD.

There being no objection, the joint resolutions were ordered to be printed in the RECORD, as follows:

#### S.J. RES. 31

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

That Congress disapproves the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1895 (2004), and such rule shall have no force or effect.

#### S.J. RES. 32

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

That Congress disapproves the rule submitted by the Office of the Comptroller of the Currency relating to bank activities and regulations, published at 69 Fed. Reg. 1904 (2004), and such rule shall have no force or effect.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 333—COMMENDING THE HUSKIES OF THE UNIVERSITY OF CONNECTICUT FOR WINNING THE 2004 DIVISION I MEN'S AND WOMEN'S NCAA BASKETBALL CHAMPIONS

Mr. DODD (for himself and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

#### S. RES 333

Whereas the University of Connecticut has become the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year;

Whereas the University of Connecticut men's basketball team capped a remarkable season by defeating an outstanding Georgia Tech team 82 to 73, to win its second national championship in 6 seasons;

Whereas the Husky men finished with a record of 33 wins and only 6 losses and is the first team since 1996 to be ranked first in the preseason and to win the national title in the same season;

Whereas the Husky men established themselves as the dominant team in the Big East Conference by winning the Big East Tournament championship;

Whereas UConn's Emeka Okafor distinguished himself in the championship game and throughout the season as 1 of the premier players in all of college basketball, winning awards as the Big East scholar-athlete of the year, defensive player of the year, and player of the year, and closing out a spectac-

ular performance in the NCAA tournament by being named the most outstanding player of the Final Four;

Whereas the national title was made possible by the contribution of the entire team including: Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villaneueva, Marcus White, and Marcus Williams;

Whereas UConn men's coach Jim Calhoun instilled in his players an unceasing ethic of dedication and teamwork in the pursuit of excellence and is now 1 of only 3 active Division I men's basketball coaches with multiple NCAA titles, with the help of his assistant coaches Tom Moore, George Blaney, and Clyde Vaughan;

Whereas the University of Connecticut women's basketball team won its fifth overall and third straight national championship by defeating a superb team from the University of Tennessee, by the score of 70 to 61;

Whereas the Lady Huskies became only the second women's basketball team ever to win 3 consecutive national women's basketball titles;

Whereas Diana Taurasi distinguished herself as the number 1 player in women's college basketball, being chosen as the national women's player of the year, becoming only the fifth player to win 2 such awards, scoring the second most points of any player in women's NCAA Tournament history, scoring 17 points in the final game to lead UConn to victory, and being named outstanding player of the Final Four for the second year in a row;

Whereas the national championship was made possible by the contribution of the entire team including: Ashley Valley, Diana Taurasi, Kiana Robinson, Maria Conlon, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Wilnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother;

Whereas Lady Huskies Coach Geno Auriemma is in his 18th season coaching the Huskies and has led them to 18 winning seasons and 5 national titles with the help of his assistant coaches Chris Dailey, Tonya Cardoza, and Jamelle Elliott; and

Whereas the University of Connecticut's unparalleled success continues to bring enormous pride to the people of Connecticut and sports fans across the country: Now, therefore, be it

*Resolved*, That the Senate commends the University of Connecticut for—

(1) winning the 2004 NCAA Division I Men's Basketball Championship;

(2) winning the 2004 NCAA Division I Women's Basketball Championship; and

(3) becoming the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 3043. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 344, expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes; which was ordered to lie on the table.

### TEXT OF AMENDMENTS

SA 3043. Mr. AKAKA submitted an amendment intended to be proposed by

him to the bill S. 344, expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Government Reorganization Act of 2004".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States;

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal responsibility to promote the welfare of the native people of the United States, including Native Hawaiians;

(4) under the treaty making power of the United States, Congress exercised its constitutional authority to confirm treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions with the Kingdom of Hawaii to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(5) pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land to address the conditions of Native Hawaiians in the Federal territory that later became the State of Hawaii;

(6) by setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act assists the members of the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii;

(7) approximately 6,800 Native Hawaiian families reside on the Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress established a public trust (commonly known as the "ceded lands trust"), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other ceded lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii;

(12) on November 23, 1993, Public Law 103-150 (107 Stat. 1510) (commonly known as the "Apology Resolution") was enacted into law, extending an apology on behalf of the United States to the Native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(13) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(14) the Apology Resolution expresses the commitment of Congress and the President—

(A) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii;

(B) to support reconciliation efforts between the United States and Native Hawaiians; and

(C) to consult with Native Hawaiians on the reconciliation process as called for in the Apology Resolution;

(15) despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a distinct native community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency;

(16) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction;

(xii) traditional justice programs, and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

(18) the Native Hawaiian people wish to preserve, develop, and transmit to future generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(19) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a Native Hawaiian governing entity for the purpose of giving ex-

pression to their rights as native people to self-determination and self-governance;

(20) Congress—

(A) has declared that the United States has a special responsibility for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) has identified Native Hawaiians as a distinct group of indigenous, native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

(21) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3; 73 Stat. 4), by—

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States' responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the authority to enforce the trust, including the exclusive right of the United States to consent to any actions affecting the lands that comprise the corpus of the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act;

(22) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the indigenous, native people of a once-sovereign nation with whom the United States has a political and legal relationship; and

(D) the special trust relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States; and

(23) the State of Hawaii supports the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States as evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.**—The term "aboriginal, indigenous, native people" means people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

(2) **ADULT MEMBER.**—The term "adult member" means a Native Hawaiian who has attained the age of 18 and who elects to participate in the reorganization of the Native Hawaiian governing entity.



(3) **APOLOGY RESOLUTION.**—The term “Apology Resolution” means Public Law 103-150, (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893 overthrow of the Kingdom of Hawaii.

(4) **COMMISSION.**—The term “commission” means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in section 3(8).

(5) **COUNCIL.**—The term “council” means the Native Hawaiian Interim Governing Council established under section 7(c)(2).

(6) **INDIGENOUS, NATIVE PEOPLE.**—The term “indigenous, native people” means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(7) **INTERAGENCY COORDINATING GROUP.**—The term “Interagency Coordinating Group” means the Native Hawaiian Interagency Coordinating Group established under section 6.

(8) **NATIVE HAWAIIAN.**—For the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the term “Native Hawaiian” means—

(A) an individual who is one of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(i) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(ii) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(B) an individual who is one of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(9) **NATIVE HAWAIIAN GOVERNING ENTITY.**—The term “Native Hawaiian Governing Entity” means the governing entity organized by the Native Hawaiian people pursuant to this Act.

(10) **OFFICE.**—The term “Office” means the United States Office for Native Hawaiian Relations established under section 5(a).

(11) **SECRETARY.**—The term “Secretary” means the Secretary of the Department of the Interior.

#### SEC. 4. UNITED STATES POLICY AND PURPOSE.

(a) **POLICY.**—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct, indigenous, native people with whom the United States has a special political and legal relationship;

(2) the United States has a special political and legal relationship with the Native Hawaiian people which includes promoting the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (Public Law 86-3, 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) **PURPOSE.**—The purpose of this Act is to provide a process for the reorganization of the Native Hawaiian governing entity and the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

#### SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary of the United States Office for Native Hawaiian Relations.

(b) **DUTIES.**—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Interagency Coordinating Group, other Federal agencies, the Governor of the State of Hawaii and relevant agencies of the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

#### SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) **ESTABLISHMENT.**—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the “Native Hawaiian Interagency Coordinating Group”.

(b) **COMPOSITION.**—The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that administers Native Hawaiian programs, establishes or implements policies that affect Native Hawaiians, or whose actions may significantly or uniquely impact Native Hawaiian resources, rights, or lands; and

(2) the Office.

(c) **LEAD AGENCY.**—

(1) **IN GENERAL.**—The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group.

(2) **MEETINGS.**—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) **DUTIES.**—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) ensure that each Federal agency develops a policy on consultation with the Native Hawaiian people, and upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States, consultation with the Native Hawaiian governing entity; and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

#### SEC. 7. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) **RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.**—The right of the Native Hawaiian people to reorganize the Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) **COMMISSION.**—

(1) **IN GENERAL.**—There is authorized to be established a Commission to be composed of nine members for the purposes of—

(A) preparing and maintaining a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(2) **MEMBERSHIP.**—

(A) **APPOINTMENT.**—Within 180 days of the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subclause (B). Any vacancy on the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

(B) **REQUIREMENTS.**—The members of the Commission shall be Native Hawaiian, as defined in section 3(8), and shall have expertise in the determination of Native Hawaiian ancestry and lineal descendancy.

(3) **EXPENSES.**—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(4) **DUTIES.**—The Commission shall—

(A) prepare and maintain a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(5) **EXPIRATION.**—The Secretary shall dissolve the Commission upon the reaffirmation of the political and legal relationship between the Native Hawaiian governing entity and the United States.

#### THE NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) **ROLL.**—

(A) **CONTENTS.**—The roll shall include the names of the adult members of the Native

Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(8) by the Commission.

(B) FORMATION OF ROLL.—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(8).

(C) DOCUMENTATION.—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(8);

(ii) establish a standard format for the submission of documentation;

(iii) publish information related to subclauses (i) and (ii) in the Federal Register;

(D) CONSULTATION.—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descentancy.

(E) CERTIFICATION AND SUBMITTAL OF ROLL TO SECRETARY.—The Commission shall—

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(8) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(8).

(F) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(8), the Secretary shall publish the roll in the Federal Register.

(G) APPEAL.—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(8) and to be 18 years of age or older.

(H) PUBLICATION; UPDATE.—The Secretary shall—

(i) publish the roll regardless of whether appeals are pending;

(ii) update the roll and the publication of the roll on the final disposition of any appeal;

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(8) after the initial publication of the roll or after any subsequent publications of the roll.

(I) FAILURE TO ACT.—If the Secretary fails to publish the roll, not later than 90 days after the date on which the roll is submitted to the Secretary, the Commission shall publish the roll notwithstanding any order or directive issued by the Secretary or any other official of the Department of the Interior to the contrary.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of adult members of the Native Hawaiian community

whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(A) ORGANIZATION.—The adult members of the Native Hawaiian community listed on the roll published under this section may—

(i) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(ii) determine the structure of the Council; and

(iii) elect members from individuals listed on the roll published under this subsection to the Council.

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) may represent those listed on the roll published under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) FUNDING.—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) ACTIVITIES.—

(I) IN GENERAL.—The Council may conduct a referendum among the adult members of the Native Hawaiian community listed on the roll published under this subsection for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for citizenship of the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council may develop proposed organic governing documents for the Native Hawaiian governing entity.

(III) DISTRIBUTION.—The Council may distribute to all adult members of the Native Hawaiian community listed on the roll published under this subsection—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) ELECTIONS.—The Council may hold elections for the purpose of ratifying the proposed organic governing documents, and on certification of the organic governing documents by the Secretary in accordance with paragraph (4), hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the three governments, not later than 90 days after the date

on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of the adult members of the Native Hawaiian community whose names are listed on the roll published by the Secretary;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity; including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the three governments;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law and the special political and legal relationship between the United States and the indigenous, native people of the United States; provided that the provisions of Public Law 103-454, 25 U.S.C. 479a, shall not apply.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (A).—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A);

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) CERTIFICATIONS DEEMED MADE.—The certifications under paragraph (4) shall be deemed to have been made if the Secretary has not acted within 90 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) ELECTIONS.—On completion of the certifications by the Secretary under paragraph (4), the Council may hold elections of the officers of the Native Hawaiian governing entity.

(6) REAFFIRMATION.—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the political and legal relationship between the United States and the Native Hawaiian governing entity is

hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

**SEC. 8. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS; CLAIMS.**

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled (An Act to provide for the admission of the State of Hawaii into the Union approved March 18, 1959 (Public Law 86-3, 73 Stat. 5) is reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—

(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the delegation of governmental powers and authorities to the Native Hawaiian governing entity by the United States and the State of Hawaii; and

(E) any residual responsibilities of the United States and the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States, the State of Hawaii, and the Native Hawaiian governing entity, the parties shall submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the three governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the three governments.

(c) CLAIMS.—

(1) IN GENERAL.—Nothing in this Act serves as a settlement of any claim against the United States.

(2) JURISDICTION; STATUTE OF LIMITATIONS.—The U.S. District Court for the District of Hawaii shall have original jurisdiction over any existing claim against the United States arising under Federal law existing on the date of enactment of this Act and relating to the legal and political relationship between the United States and the Native Hawaiian governing entity provided that the claim is filed in the district court within 20 years of the date of enactment of this Act, and provided further that the Court of Federal Claims shall continue to have exclusive jurisdiction over any claim otherwise within the jurisdiction of that court.

**SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.**

(a) INDIAN GAMING REGULATORY ACT.—Nothing in this Act shall be construed to authorize the Native Hawaiian governing entity to conduct gaming activities under the authority of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) BUREAU OF INDIAN AFFAIRS.—Nothing contained in this Act provides an authorization for eligibility to participate in any programs and services provided by the Bureau of

Indian Affairs for any persons not otherwise eligible for the programs or services.

**SEC. 10. SEVERABILITY.**

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

**SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 7, 2004, at 2 p.m. to conduct a hearing on "The Review of the National Bank Preemption Rules."

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 7, at 2 p.m. to consider EPA nominations and other business.

The business meeting will be held in S-128 (Appropriations) in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FINANCE**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 7, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "Strategies To Improve Access to Medicaid Home and Community Based Services."

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 9:30 a.m. to hold a hearing on UN Oil for Food.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 7, 2003, at

2:30 p.m. to hold a hearing on Fighting HIV/AIDS in Africa; A Progress Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, April 7, 2004, at 10 a.m. for a hearing titled "Postal Reform: The Chairmen's Perspectives on Governance and Rate-Setting."

The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 7, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on S. 1529, a bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; and S. 1955, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. GREGG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 7, 2004 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS**

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on "Improving the Administration of Justice: A Proposal to Split the Ninth Circuit" on Wednesday, April 7, 2004, at 10 a.m. in room 226 of the Dirksen Senate Office building.

*Witness List*

Panel I: The Honorable Diarmuid F. O'Scannlain, U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Portland, OR; the Honorable Mary M. Schroeder, Chief U.S. Circuit Judge, U.S. Court of Appeals of the Ninth Circuit, Phoenix, AZ; the Honorable Richard C. Tallman, U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Seattle, WA; and the Honorable J. Clifford Wallace, Senior U.S. Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, San Diego, CA.

Panel II: The Honorable Gerald B. Tjoflat, U.S. Circuit Judge, U.S. Court of Appeals for the Eleventh Circuit, Jackson, FL; and the Honorable John C. Coughenour, Chief U.S. District Judge, U.S. District Court for the Western District of Washington, Seattle, WA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, COMPETITION  
POLICY AND CONSUMER RIGHTS

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet to conduct a hearing on "Crude Oil: The Source of Higher Gas Prices?" on Wednesday, April 7, 2004, at 2:30 p.m. in room 226 of the Dirksen Senate Office Building.

Witness List: Mr. William Kovacic, General Counsel, Federal Trade Commission; Dr. John Felmy, Chief Economist and Director, American Petroleum Institute; Dr. Justine Hastings, Assistant Professor, Yale University Department of Economics; Mr. George Bermann, Walter Gellhorn Professor of Law, Columbia University School of Law; and Dr. Mark Cooper, Director of Research, Consumer Federation of America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT,  
THE BUDGET, AND INTERNATIONAL SECURITY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Wednesday, April 7, 2004 at 2 p.m. for a hearing entitled, "Legislative Hearing on S. 346, a Bill to Amend the Office of Federal Procurement Policy Act to Establish a Government-Wide Policy Requiring Competition in Certain Procurements from Federal Prison Industries."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES, WILDLIFE AND  
WATER

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Wednesday, April 7th at 2:30 p.m. to hold an oversight hearing on the detection of lead in the District of Columbia drinking water.

The business meeting will be held in S-128 (Appropriations) in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEANS, FISHERIES, AND  
COAST GUARD

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation, Subcommittee on Oceans, Fisheries, and Coast Guard, be authorized to meet on Wednesday, April 7, 2004, at 2 p.m., in SR-428A, for a hearing on Coast Guard oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND  
SPACE

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation, Subcommittee on

Science, Technology, and Space, be authorized to meet on Wednesday, April 7, 2004, at 2:30 p.m., in SR-253, for a hearing on near earth objects.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on April 7, 2004, at 10 a.m., in open and closed session to receive testimony on defense intelligence programs and lessons learned in recent military operations, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. FEINGOLD. Madam President, I ask unanimous consent that Jeff Wax, an intern on my Judiciary Committee staff, be granted the privilege of the floor for the duration of my remarks on the SAFE Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST  
TIME—S. 2290

Mr. FRIST. Madam President, I understand that S. 2290, which was introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2290) to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Mr. FRIST. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, object to further proceedings on this matter.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

225TH ANNIVERSARY OF THE  
AMERICAN REVOLUTION COM-  
MEMORATION ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1108, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title. The assistant legislative clerk read as follows:

A bill (S. 1108) to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1108) was read the third time and passed, as follows:

S. 1108

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "225th Anniversary of the American Revolution Commemoration Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the American Revolution, inspired by the spirit of liberty and independence among the inhabitants of the original 13 English colonies, was an event of global significance having a profound and lasting effect on the government, laws, culture, society, and values of the United States;

(2) the years 2000 through 2008 mark the 225th anniversary of the American Revolution;

(3) citizens of the United States should have an opportunity to understand and appreciate the continuing legacy of the American Revolution;

(4) the 225th anniversary of the American Revolution provides an opportunity to enhance public awareness and understanding of the impact of the American Revolution on the lives of citizens of the United States;

(5) although the National Park Service administers battlefields, historical parks, historic sites, and programs that address elements of the story of the American Revolution, there is a need to establish partnerships that link those sites and programs with sites and programs of other Federal and non-Federal entities to place the story of the American Revolution in the broad context of the causes, consequences, and significance of the American Revolution; and

(6) a national program of the National Park Service that links historic structures and sites, routes, activities, community projects, exhibits, and multimedia materials in a manner that is unified and flexible is the best method of conveying to citizens of the United States the story and significance of the American Revolution.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the enduring importance of the American Revolution to the lives of citizens of the United States; and

(2) to authorize the National Park Service to coordinate, connect, and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the American Revolution, including the significance and relevance of the American Revolution to the shape and spirit of the Government and society of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) PROGRAM.—The term "Program" means the 225th Anniversary of the American Revolution Commemoration Program established under section 4(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. 225TH ANNIVERSARY OF THE AMERICAN  
REVOLUTION COMMEMORATION  
PROGRAM.

(a) IN GENERAL.—The Secretary shall establish within the National Park Service a

program to be known as the "225th Anniversary of the American Revolution Commemoration Program".

(b) ACTIVITIES.—In carrying out the program, the Secretary shall—

(1) produce and distribute to the public educational materials relating to the American Revolution, such as—

- (A) handbooks;
- (B) maps;
- (C) interpretive guides; and
- (D) electronic information;

(2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (d);

(3) assist in the protection of resources associated with the American Revolution;

(4) enhance communications, connections, and collaboration among units and programs of the National Park Service relating to the American Revolution;

(5) expand the research base for interpretation of and education on the American Revolution; and

(6)(A) create and adopt an official, uniform symbol or device for the theme "Lighting Freedom's Flame: American Revolution, 225th Anniversary"; and

(B) promulgate regulations for the use of the symbol or device.

(c) COMPONENTS.—The Program shall include—

(1) units and programs of the National Park Service relevant to the American Revolution, as determined by the Secretary;

(2) other governmental and nongovernmental—

(A) sites and facilities that are documented to be directly related to the American Revolution; and

(B) programs of an educational, research, or interpretive nature relating to the American Revolution; and

(3) through the Secretary of State, the participation of the Governments of the United Kingdom, France, the Netherlands, Spain, and Canada.

(d) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—To achieve the purposes of this Act and to ensure the effective coordination of the Federal and non-Federal components of the Program with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, units of local government, and private entities; and

(2) in cooperation with the Secretary of State, the Governments of the United Kingdom, France, the Netherlands, Spain, and Canada.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this Act \$500,000 for each of fiscal years 2004 through 2009.

#### COMMENDING THE HUSKIES OF THE UNIVERSITY OF CONNECTICUT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 333, submitted earlier today by Senators DODD and LIEBERMAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 333) commending the Huskies of the University of Connecticut for

winning the 2004 Division I Men's and Women's NCAA Basketball Championships.

The PRESIDING OFFICER. Is there objection to proceeding to the resolution?

Mr. REID. Mr. President, reserving the right to object, you would think—

Mr. FRIST. I appreciate the reservation being made over there because it was going to come quickly over here.

Mr. REID. Mr. President, the situation we have here is just like Las Vegas. This resolution is 333, just by chance. This is the third year in a row the women have won the national championship. Those two teams have been so lucky, maybe they should spend a little time in Las Vegas.

Mr. FRIST. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, my smile is because it was just yesterday about this time that the distinguished Presiding Officer and myself—actually, it was a little earlier than this—were in the Chamber hoping this resolution would not ever make it to the floor, given the fact that our Lady Vols were about to play. This was about 24 hours ago.

As the distinguished Senator from Connecticut said earlier today, it was a fantastic game, and to be able to watch last night two outstanding women's basketball teams compete in the very best spirit—which is what sports is all about, which is what competition is all about, which is what hard work is all about—was a great thrill to us all.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 333

Whereas the University of Connecticut has become the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year;

Whereas the University of Connecticut men's basketball team capped a remarkable season by defeating an outstanding Georgia Tech team 82 to 73, to win its second national championship in 6 seasons;

Whereas the Husky men finished with a record of 33 wins and only 6 losses and is the first team since 1996 to be ranked first in the preseason and to win the national title in the same season;

Whereas the Husky men established themselves as the dominant team in the Big East Conference by winning the Big East Tournament championship;

Whereas UConn's Emeka Okafor distinguished himself in the championship game and throughout the season as 1 of the premier players in all of college basketball, winning awards as the Big East scholar-athlete of the year, defensive player of the year, and player of the year, and closing out a spectacular performance in the NCAA tournament by being named the most outstanding player of the Final Four;

Whereas the national title was made possible by the contribution of the entire team including: Rashad Anderson, Hilton Armstrong, Jason Baisch, Josh Boone, Denham Brown, Taliek Brown, Justin Evanovich, Ben Gordon, Ed Nelson, Emeka Okafor, Ryan Swaller, Ryan Thompson, Shamon Tooles, Charlie Villanueva, Marcus White, and Marcus Williams;

Whereas UConn men's coach Jim Calhoun instilled in his players an unceasing ethic of dedication and teamwork in the pursuit of excellence and is now 1 of only 3 active Division I men's basketball coaches with multiple NCAA titles, with the help of his assistant coaches Tom Moore, George Blaney, and Clyde Vaughan;

Whereas the University of Connecticut women's basketball team won its fifth overall and third straight national championship by defeating a superb team from the University of Tennessee, by the score of 70 to 61;

Whereas the Lady Huskies became only the second women's basketball team ever to win 3 consecutive national women's basketball titles;

Whereas Diana Taurasi distinguished herself as the number 1 player in women's college basketball, being chosen as the national women's player of the year, becoming only the fifth player to win 2 such awards, scoring the second most points of any player in women's NCAA Tournament history, scoring 17 points in the final game to lead UConn to victory, and being named outstanding player of the Final Four for the second year in a row;

Whereas the national championship was made possible by the contribution of the entire team including: Ashley Valley, Diana Taurasi, Kiana Robinson, Maria Conlon, Stacey Marron, Morgan Valley, Nicole Wolff, Ashley Battle, Wilnett Crockett, Jessica Moore, Barbara Turner, Liz Sherwood, and Ann Strother;

Whereas Lady Huskies Coach Geno Auriemma is in his 18th season coaching the Huskies and has led them to 18 winning seasons and 5 national titles with the help of his assistant coaches Chris Dailey, Tonya Cardoza, and Jamelle Elliott; and

Whereas the University of Connecticut's unparalleled success continues to bring enormous pride to the people of Connecticut and sports fans across the country: Now, therefore, be it

*Resolved*, That the Senate commends the University of Connecticut for—

(1) winning the 2004 NCAA Division I Men's Basketball Championship;

(2) winning the 2004 NCAA Division I Women's Basketball Championship; and

(3) becoming the first school in the history of NCAA Division I basketball to win both the men's and women's national titles in the same year.

#### ORDERS FOR THURSDAY, APRIL 8, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, April 8. I further ask that following the prayer and pledge, the morning hour be

deemed expired and the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, and the second 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate begin consideration of the conference report to accompany H.R. 3108, the pension reform bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. FRIST. Mr. President, tomorrow morning, following morning business, the Senate will begin consideration of the conference report to accompany the pension reform bill. Under the unanimous consent agreement, there will be up to 4 hours for debate equally divided. Following the use or yielding back of time, the Senate will vote on the conference report. In addition to the pension reform conference report, the Senate may resume consideration of the FSC/ETI or JOBS bill.

#### ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senators STABENOW and DOLE.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, first, I very much appreciate the Senate coming in when it is. We have a very important meeting at 9 o'clock with Secretary Rumsfeld. I appreciate that. I say that on behalf of the entire Senate.

Senator STABENOW wishes to speak for 20 minutes tonight, just so everyone understands. I do not know how long the Senator from North Carolina is going to speak.

Mrs. DOLE. About 8 minutes.

Mr. REID. Mr. President, does the Senator from Michigan mind if the Senator from North Carolina goes ahead of her?

Ms. STABENOW. No.

The PRESIDING OFFICER. The Senator from North Carolina.

#### STAYING THE COURSE IN IRAQ

Mrs. DOLE. Mr. President, a few years may have passed since I had the pleasure of serving President Ronald Reagan, but I can still remember the liberal naysayers attacking him for his fixed resolve in fighting the cold war. They questioned President Reagan's reasoning, they questioned his strategy, and they questioned America's chances of coming away victorious in a

battle to free the Soviet Union and other countries from the grasp of communism. President Reagan rejected communism, he rejected the Iron Curtain, and he refused to concede that freedom could not prevail.

While the Soviet Union was extending its influence and doctrine throughout the world, President Reagan had a different idea for the course of history. He knew that the enemy must be defeated, not tolerated. So in the face of severe criticism, Ronald Reagan did just that. Of course, we now know Reagan was right in his actions to eradicate communism. Millions were freed, and a global threat no longer exists.

Does this kind of skepticism have a familiar ring? It should. It is frighteningly similar to the opposition our current President is facing. In fact, some of the faces are even the same. They were wrong then, and they are wrong now.

As did Reagan, President Bush determined that terrorism must not be tolerated. It must be defeated.

Since declaring a global war on terror, the United States has succeeded in two operations against countries that harbored known terrorists. We have captured a brutal dictator in Saddam Hussein, immobilized Osama bin Laden, destroyed al-Qaida's base, and Iraq now has a constitution built on democratic principles. We are also seeing positive signs from known sponsors of terrorists.

After years of successfully hiding from United Nations inspectors, Libya has now relinquished its nuclear weapons program. Libya, as well as other rogue terrorist regimes, knows this President means business. Does this sound like a record that deserves criticism and skepticism?

Since liberating Iraq, the coalition forces have made tremendous progress, but insurgents remain who do not wish to embrace freedom but instead choose violence and terror. Coalition forces are presently seeking cleric al-Sadr. He is an individual who has a lot in common with Saddam Hussein. Much like Saddam, he is inciting criminals and loyalists of the old regime to take up arms against peace and freedom. Much like Saddam, he is hiding somewhere while others fight his battle—this time in a mosque, not a hole. And much like Saddam, he and other rogue supporters will be brought to justice by our forces.

We are blessed with brilliant and hard-working men and women, under Paul Bremer's leadership, who have sacrificed their way of life in the United States to aid the Iraqi people in the transition to democracy. Our men and women in uniform have done and are doing a phenomenal job of bringing stability to nations previously under the reign of terror. Sadly, there are casualties still occurring abroad, and it is heartbreaking.

I have personally visited with our men and women in uniform, as well as their families, and have seen firsthand

their unwavering commitment. They underscored how strongly they felt about their mission and the need to see it through to completion. Just this week, President Bush was in my home State of North Carolina where he met privately with the family of 26-year-old Army Specialist Christopher Hill. Christopher was killed in Iraq when his vehicle fell victim to a roadside bomb and exploded.

During the tear-filled meeting, an emotional President Bush spent time with Christopher's young widow, Cheryl Hill, and her 14-month-old daughter. Cheryl Hill was unyielding in her support of President Bush as our Commander in Chief. Amidst her prayers for her family, Cheryl told the President she not only supports him 100 percent, she prays for him as well.

I conclude with a story that pulled at my heartstrings this week. A soldier in Iraq was gravely injured when his vehicle was hit by a rocket-propelled grenade while on patrol. His driver and gunner were killed. He suffered extensive burns on his legs, back, and face and permanent nerve damage to his left leg.

After undergoing rehabilitation and several skin grafts in Germany, he told his commander to send him back to Iraq or he would not reenlist. He went through tests to ensure he was still mission capable and was ultimately sent back to Iraq to resume his post. When this seriously injured soldier was asked why he returned to Iraq after that kind of ordeal, he simply responded, "The job is not done."

Simple words, but how powerful and how poignant. Our job is not done, but I know we have men and women capable of completing it. May God bless each and every one of them and may God continue to bless those who yearn for freedom around the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to speak about a very important topic this evening. But I first want to commend and concur with the Senator from North Carolina in terms of our support for our troops. I think this is such a critical time. It is such a challenging, dangerous time for our men and women who are serving us now, particularly in Iraq and Afghanistan. All of us, 100 percent of this body, and I know the House, as well as the administration, join together in saluting, commending, and sending our prayers to them every single day.

I also wish to give my respect and honor and support to all of our men and women who are serving us.

#### MEDICARE AND PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I rise today to speak about a subject that I have certainly spoken about before on the Senate floor. This is an issue of great concern, an issue that is

near and dear to my heart, and that is the question of Medicare. Right now, though, too many people are calling the new Medicare law that we passed "Medigate" because of all of the issues that have come forward, both in implementing the new law and in issues that relate to what we knew, what was withheld from us, all of the information and inaccuracies in fact that have come forward since passing this legislation.

I am very concerned, as I have indicated on many occasions, that the new law includes provisions that would undermine Medicare as we know it; that many beneficiaries would be worse off, either losing their coverage or paying more under the new Medicare law. To add insult to injury, this new law does nothing to lower the cost of prescription drugs.

Every day, as we look more closely at what some are calling Medigate, over and over again we find there are new concerns about the Medicare bill. Senator BOB GRAHAM spoke earlier, and I commend him as a champion of protecting Medicare. Throughout his tenure in the Senate, he has been a thoughtful and passionate champion on this issue.

He spoke about Richard Foster, who was threatened that if he told us the real numbers on what it would cost, he would be fired. Now we see charges and countercharges, questions being raised about what is happening.

Sadly, we have heard this same story repeated over and over again in different ways about people who had the courage to stand up and disagree with the current administration, or, in this case, a career public servant who was just trying to do his job and give us the information to which we had the right and, in fact, needed to know before we passed this Medicare bill.

As I have indicated in expressing my concerns, we started out with a bill that would provide a real, comprehensive prescription drug benefit for seniors, a bill that would lower prices for everyone, and we ended up with neither of those things. Instead, we ended up with a bill that is focused on helping the pharmaceutical industry increase their profits and on helping the insurance industry.

This bill is a bad bill for Americans. It is a bad law for American seniors, the disabled, and for our families. So I have chosen to put together what I call the ABCs on Medicare in terms of what has happened and what the concerns are in the areas that we need to work together to change before this takes effect in 2006. I call it the ABCs of the new Medicare plan.

First, A is for the attacks on Medicare through privatization in this bill. Secondly, it is a bad benefit. It is not a good benefit for seniors. There is a large gap in coverage. There are high out-of-pocket costs. There are uncertain premiums. We know the premiums will be going up.

Coverage loss is another issue. We know that 2.7 million retirees will lose

prescription drug coverage in private plans. These are people who had plans; they worked hard all their lives; they retired; they may have given up a pay raise in order to make sure they had retiree health care coverage. We know that 2.7 million of them or 1 out of 4 people with private retirement plans right now will lose them. They will be dropped from coverage because of the way this benefit is designed.

We also know the discount cards are of little help. I will speak more on that in a moment, but one piece that I thought was going to actually help people was a discount card, a discount of anywhere between 10 percent and 25 percent. Now there are serious questions being raised about whether there will be any real discount for people in the end.

Finally, this law eliminates provisions to lower prices.

When we look at this privatization of Medicare with bad benefits—some people lose their coverage, the discount cards are not what were advertised, and the fact that we see no provisions to lower prices—I suggest we ought to start over and make sure we get it right. We have time to do that.

The attacks on Medicare through privatization—what does that mean? We know a couple of things. We know what will happen in 6 short years. Mr. President, 2010 sounds like a long time away. It is 6 years from now. In 2010, for people in 10 different demonstration areas—we don't know where they will be, but in 10 areas around the country—if folks want to stay in traditional Medicare they are going to end up paying more. In fact, in those areas, we find that CBO says it could cost up to 25 percent more to stay in traditional Medicare. Others will be forced into private HMOs.

How is this going to work? In 2010, for people who are in this demonstration area, Medicare will change from a defined benefit to a defined contribution. What does that mean? It means instead of having the same Medicare wherever you go—which, by the way, is what the ad says, "same Medicare, more benefits"—it will not be true for people in these areas. The Secretary of Health and Human Services indicated he did not know if the ad would be true: Same Medicare, more benefits.

In fact, it is not true for people in these areas around the country because what will happen is instead of having your same Medicare with the same premium and copay anywhere you live anywhere within Michigan, whether it is Upper Peninsula, Grand Rapids, Detroit, or Lansing, or Mississippi, Texas, or Minnesota, instead of knowing what you have and being able to pick your own doctor, for folks in these demonstration areas this will become a defined contribution.

Essentially, they will be given the equivalent of a voucher for a certain amount of money; then Medicare beneficiaries can decide whether they want to go to an HMO, whether they want to

go to a private insurance company, or whether they want to stay in traditional Medicare. If the costs go up of going into a private plan, the individual would have to pay the difference. If the person stays in traditional Medicare, again it is anticipated that the costs will go up by 25 percent.

Why is that? If you are healthy, you are younger, wealthier, so you don't mind taking a risk that your costs are going to go up. You probably can get a deal in a private plan, particularly if you are healthier and younger, so you will get a better rate.

Folks who are older, more disabled, sicker won't be able to get a very good rate from private insurance companies. Instead they will stay in traditional Medicare. Fewer people in traditional Medicare, the cost is not spread as far, the risk pool is not as big—therefore, costs go up.

What we see is an effort, in just 6 short years, to demonstrate in 10 areas around the country a different kind of system that puts the risk and the possibility of increased costs on the senior citizen, on the disabled. It begins to unravel Medicare as we know it.

I believe that is by design. I believe when Newt Gingrich said we can't directly eliminate Medicare but we are going to let it "wither on the vine," when he made those comments a number of years ago, I think that is exactly the kind of thing he was talking about in these demonstration projects. As I have indicated, we know the costs of Medicare will go up by about 25 percent as a result of this.

Why would we want to do this? The reality is Medicare costs less to administer in terms of health services than private plans. We know that. The Congressional Budget Office says it costs 13.2 percent more money to go through an HMO right now, or private plan, than it does to stay in traditional Medicare. We also know Medicare is more cost efficient. Only 2 percent of Medicare expenditures are used for administrative costs. The private sector spends about 15-percent administrative costs.

We have a system that works; it is efficient; it doesn't cost much to administer; and everybody gets covered. This is a great thing. Medicare is a great American success story. If you are 65 or older or you are disabled in this country, we have set as a priority, as an American value, that we want to make sure our people have health care in this country. We want to make sure we don't forget our seniors, forget those who are disabled. A system was put together that worked.

Instead of celebrating that system, there is an effort now to dismantle it, unravel it, and to help do that in this bill. This bill would overpay private plans by \$46 billion so they can compete more easily. Right now, most people aren't picking private HMOs through Medicare+Choice. To make them more attractive, \$46 billion that could be spent to lower prescription



drug prices is being given to private companies and HMOs so they can more effectively compete with Medicare.

There is also a slush fund of \$12 billion for private companies in this bill. It doesn't go to paying for prescription drugs; it goes to subsidize the insurance industry so they can compete more effectively, even though right now we know we would save money if we put a prescription drug benefit through Medicare as we know it and beefed up a system that is already working.

Second, this is a bad benefit. In fact, I wish this was a good benefit. We all want to have the very best benefit possible for our seniors. Unfortunately, we are in a situation where, first of all, those with a very low income, who are under Medicaid right now and will be moved over to Medicare, may actually find themselves paying more because the copays are higher. Think about that. Folks who are choosing between food and medicine, the folks we have all talked about when we went home under this bill, actually may pay more than staying with the current system we have right now.

There are some folks who will receive some assistance, but first they will need to pay \$35 a month in premiums, in fees. In order to be exempt from that, that person will have to qualify as low income and have less than \$6,000 in assets. Think about that. That is not that much money. Someone would have to have less than \$6,000 in assets to be able to qualify for the low-income benefit and not have to pay the premiums or the copays.

But assuming someone is having to pay, assuming \$35 a month, a \$250 deductible, then after someone has paid \$250 they would have a 25-percent copay on any prescription drugs they purchased up until a total of \$2,250.

But after you have spent \$2,250 in prescription drug costs out of your pocket, you have to continue to pay the premium but get no help paying for your medicine until you reach \$5,100 in drug spending. That is a huge gap. Some call it a donut hole. It is a huge gap. You have to continue to pay. You don't get any help.

What does that mean in the end? It means in the end you are paying \$4,050 out of pocket when you have a prescription drug bill totaling \$5,100. So your drug bills are \$5,100 and of that you are paying \$4,050. You are still paying 80 percent. We can do better than that. That is a bad benefit for our seniors.

Let me also speak about the loss of coverage. We have 2.7 million retirees who will lose coverage because they have a private retiree coverage right now through their business, and the way it is designed it will not allow that to continue. The incentive will not be there for the business to continue this even though folks have worked their whole lives to make sure they had coverage when they retired. That was part of their benefit plan, part of their sal-

ary, and what they have worked for their entire life.

Mr. DURBIN. Mr. President, will the Senator from Michigan yield for a question?

Ms. STABENOW. Yes. I will gladly yield to my friend from Illinois.

Mr. DURBIN. On the point she just made, as I traveled about the State of Illinois over the last several days, I have run into retirees who talked to me about having the rug pulled out from under them. After having worked for years, they expect to receive retirement income and certain benefits. Then because of a company's change in policy, these retirees find they will lose their health care benefits.

But the Senator from Michigan is saying under the new prescription drug plan supported by the Bush administration, you anticipate when this goes into effect over 2½ million retirees across this country will find these companies basically dumping the coverage they already provided and instead trying to replace it with their plan. Is that what the Senator anticipates as the outcome here?

Ms. STABENOW. Yes. What we are finding—and certainly when we started, we wanted the baseline to do no harm. We shouldn't have people worse off than they are now after we passed this. Yet 1 out of 4 retirees, or 2.7 million retirees, will find themselves in that situation, according to the estimates.

Mr. DURBIN. If the Senator from Michigan will further yield for a question, it is my understanding as well if a retiree in America wanted to sign up for President Bush's prescription drug plan but then realizes, as the Senator described earlier, there is a big gap in coverage, for example, that the language of the law itself prohibits that retiree from buying in addition to this plan their own private health insurance coverage to fill in the gap in the plan. So it basically takes away the power of the senior, the choice of the senior to try to cover their own expenses by expressly prohibiting that senior from purchasing insurance to supplement President Bush's prescription drug plan.

Ms. STABENOW. It is stunning, actually. I am so glad the Senator raised that issue. My mother raised it with me after listening to the debate. The first thing she said to me after this was passed was, You are telling me I can't have my Medigap policy. There is a huge hole in the middle of it. There is no coverage. This particular law says under your own choice you cannot voluntarily go out and buy a Medigap policy. It makes absolutely no sense.

Mr. DURBIN. If the Senator will further yield for a question, one of the fundamental issues with the President's prescription drug plan is—as I am sure the Senator has mentioned, or will in the course of her remarks—there is no mechanism in place in this plan for Medicare itself as an insurance program that Americans are familiar

with, that seniors trust; there is no provision in this bill for Medicare to offer this prescription drug coverage and bargain with the drug companies to reduce costs for seniors. There is an express prohibition for Medicare offering that kind of prescription drug benefit. Is that not correct?

Ms. STABENOW. That is correct. There is only one group that benefits from that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senator from Michigan be recognized for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. STABENOW. Thank you, Mr. President.

What we have in this new law adds insult to injury. Not only could we keep the system which everybody knows about, which is the traditional Medicare, we could have done a traditional prescription drug benefit through Medicare. It is less expensive. It is more efficient. We could have provided a better benefit. But on top of that, Medicare is not allowed to use their clout to negotiate lower prices. The VA does it.

We know if we were to negotiate on behalf of 40 million Medicare beneficiaries, we could dramatically bring down the price. The problem is the pharmaceutical industry knows that, too, and they were successful, unfortunately, with their six lobbyists for every one Member of the Senate to get that language in this bill.

Mr. DURBIN. Will the Senator from Michigan respond to this question? Why is it if this plan does not offer Medicare, the option to help pay for prescription drugs for seniors, and if this plan has so many gaps in it where people won't receive coverage, and this plan expressly prohibits seniors from buying Medigap coverage to help fill the gaps, that an organization like the American Association for Retired Persons would support this plan? Does the Senator from Michigan know if the members of that organization were surveyed as to whether they supported this plan?

Ms. STABENOW. That is one of the things that disappoints me more than anything else about what happened. I certainly have not heard from Michigan AARP members saying they support this plan. In fact, after local chapters in Michigan found out the details, they have been writing letters to the national AARP indicating they do not support this.

This is something that in no way, in my humble opinion, should have ever been supported by the AARP.

Mr. DURBIN. If the Senator will further yield for a question, if I am not mistaken, the polling I have seen says over 60 percent of AARP members oppose President Bush's prescription drug plan. But their leadership, Mr. Novelli,

appeared at a press conference and endorsed it. I notice he has had a few things to say lately. He dislikes drug companies, but it is a little late for that conversation.

As you take a look at their prescription drug plan, isn't it interesting to the Senator when President Lyndon Johnson created Medicare and the bill was passed, he only needed 8 months to put the Medicare Program in place to cover seniors, and this President says he needs more than 2 years before he can actually offer the benefits of his prescription drug program. Does the Senator from Michigan have any idea why this takes so long and why the President wants to wait?

Ms. STABENOW. First of all, it is very simple, I think. They don't want people to know the real facts about this new law. They want to be able to put ads on television that say same "Medicare, but more benefits" when, in fact, it is not the same Medicare, and certainly by 2010 it is not the same Medicare with more benefits. Some people won't be able in fact to be able to get those additional benefits. They are pushing out 2 years the implementation hoping they can campaign now and people will not really see what is taking effect.

Mr. DURBIN. I thank the Senator from Michigan for yielding the floor.

Mr. President, I ask unanimous consent after the Senator from Michigan has completed her remarks that the Senator from Minnesota be recognized to speak for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Mr. President, the Senator from Minnesota said I could speak before him. I would ask to have 10 minutes right now.

Mr. DAYTON. Mr. President, I will take my time after the Senator from Iowa.

Ms. STABENOW. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Michigan has the floor, and has 11 minutes.

Ms. STABENOW. Thank you very much. I thank my friend from Illinois.

I would simply also go on to say one of the things I find deeply disturbing is while seniors have to wait for whatever meager benefits are in this bill, \$46 billion has begun to be spent and given to HMOs to subsidize this effort now. Money is being spent from the Medicare bill we passed, but it is not being spent on helping people be able to pay for their medicine, which is another outrage, frankly, in this legislation.

Let me speak to one other issue. It is true, we see nothing in here that will allow Medicare to negotiate group prices.

There is one thing we thought was going to be helpful this year, a discount card. We were told it would provide from a 10-percent to 25-percent discount on prescription drugs. These are going to be available in the next couple of months.

As the Wall Street Journal has reported, the prescription drug provision for our seniors and the disabled increased 3.5 times faster than the overall rate of inflation in 2002. The prices for prescription drugs has increased more than 3.5 times the rate of inflation in the last year and a half. In fact, Families USA has done a study looking at the price increases that have occurred since the passage of the bill.

This is of great concern to me because it appears seniors may get some help. But will they really? Let me demonstrate why I wonder. I will show the savings in two ways.

We were told it would be either a 10-percent savings through a discount card or up to 25 percent. If we start with 10 percent, we have seen an increase in Celebrex of 23 percent. A 10-percent decrease with a discount card, you still see a price increase of 13 percent.

Seniors are asked to pay \$30 for this discount card and they can only change it once. Deeply disturbing to me, a senior may decide: I take Celebrex and I need as much of a discount as I can receive. I will pay my \$30 for this year. But the folks administering this can change which drugs are on the discount list every 7 days. So somebody pays their \$30, scrapes that together in order to be able to get some meager help, and then they find out next week Celebrex is not on the list, or Zolof or Zocor. So the seniors are locked in but those administering the program are not locked in.

For whom is this bill written? For whom are the regulations written? I argue, not our seniors but for the prescription drug industry.

If it is a 10-percent discount, given the increases that have been going on—anywhere from 15, 16, 19, to 23 percent—seniors are not really getting a discount if it is a 10-percent discount. That is like right before a sale, the store you go to buy your tires from increases the cost of the tires 25 percent, then they put a sign in the window that says 10 percent off. That is what we are concerned about.

Now, if it is a 25-percent discount, which would be much better, even with a 25-percent discount card, if Celebrex has gone up 23 percent, it means seniors are really getting only a 2-percent discount. Or Lipitor, going up 19 percent, you are getting only a 6-percent discount. On and on and on.

There is another area Families USA raised which is of great concern. First, they say it is difficult to know what kind of a discount you are getting if you do not know the base price. That is what we are seeing. We are seeing the base price go up so it is tougher to get a real discount.

Second, we know under the discount card program the sponsors of the cards are required to pass along to our seniors only a position of the share of the rebate they get from the drug manufacturers. Let's say they negotiate a 30-

percent discount. They do not have to pass all of that on to the senior. Instead, they can use that as profits to them.

There are a lot of issues that relate to this, a lot of concerns. In fact, Senator DASCHLE has introduced a bill, which I cosponsored, that requires that savings be passed on to the senior.

The regulations under this discount card foster a number of bait-and-switch schemes by the sponsors that I talked about before. They are locked in, they cannot change, or they can only change once, yet every 7 days the product being discounted can change.

There is a positive aspect, a \$600 credit for low-income seniors and people with disabilities who are placed on the discount card. If you qualify, you get essentially up to \$600 which you can use to purchase prescription drugs. That is a positive feature. However, my concern is, given the regulations and the certification process to qualify for low income, and the fact you have to have less than \$6,000 in assets, too many people will not qualify for something that was put in place to help.

There is something we could do, something that was not in this bill, something that would make a difference. There is bipartisan support. Instead of dealing with the discount cards and the prescription drug prices that are going up three and four times the rate of inflation, meaning there is not a real discount, real help for people, if we join together, colleagues on both sides of the aisle are supporting this, and allow the pharmacist at the local drugstore in Lansing, Detroit, or Grand Rapids, or Marquette, to be able to do business with a local pharmacist in Canada or other countries that have similar safety provisions as the United States, we could really drop prices in half on Celebrex.

Instead of figuring out these discount cards, seniors having to pay a \$30 fee in order to receive them, we simply do what should have been done sometime ago, something that can be done safely, if we had simply allowed the local pharmacist to be able to do business with a pharmacist in Canada.

I talk about Canada because that is the easiest and closest for me in Michigan. I have taken a number of bus trips with seniors to Canada. We could drop prices 50 percent. We could drop the price of Lipitor 40 percent; Zolof, 37 percent; Prevacid, 50 percent; Zocor, 47 percent.

For women with breast cancer, and I had the opportunity to take a number of women to Canada who are on Tamoxifen, this is most startling. It costs \$340 in the United States for a month of breast cancer medication. Women can receive that same drug in Canada for \$39. There are things we can do.

In conclusion, while I believe the Medicare law passed did not end up being a bill in the best interests of our seniors, the disabled, or the taxpayers of this country because of the inability

to lower prices, I do believe there are things we can do. There are things we can do together. One of those would be to open the opportunity for local pharmacists to bring down prescription drug prices at a huge discount for our seniors. I am hopeful we will bring that up together in the Senate. I believe we can get that done while we are in the process of fixing this Medicare law.

The PRESIDING OFFICER. The Senator from Iowa.

### PRESCRIPTION DRUGS

Mr. GRASSLEY. Mr. President, as chairman of the Senate Finance Committee that had jurisdiction over the prescription drug bill for seniors, and as one of those who worked on the final product as a member of the conference committee, as one who is very happy we have this piece of legislation passed, as one, after having 36 town meetings in my State since the first of the year, who has come to the conclusion that seniors are beginning to look at this program and see it as something very beneficial to them, I wish to take a few minutes to respond to the exchange that was recently put on by the Senator from Michigan and the Senator from Illinois—not to address the enlarged picture they just talked about but to address some misconceptions that can come from parts of their statements.

I would start, first, with the issue of the provision in the bill that deals with the Federal Government not negotiating the price of drugs. That was put in there for a very specific purpose. That specific purpose was, we know what the situation is with the Veterans' Administration negotiating drug prices. Yes, prices are lower for drugs because they are doing that, but we have found that the Veterans' Administration will not pay for every particular drug that a doctor might want to prescribe.

I had this brought home to me very clearly in my Des Moines town meeting, where the first question I had was from a constituent who was mad because her doctor prescribed a drug for which the VA was not going to pay. We do not want the Government bureaucrat in the medicine cabinet of the senior citizens of America. We do not want the Government bureaucrat coming between the doctor and the patient. We see that in the VA program.

What we have done in the legislation is to build upon a 40-year practice of the Federal Government, and all health care, but particularly for prescription drugs for Federal employees, through the Federal Employees Health Benefits Plan. We do not pretend to duplicate that plan, but there is some good experience of those plans negotiating with drug companies to bring down the price of drugs. So we do not have to have the Federal Government negotiating drugs. In fact, as I said, we specifically do not want it negotiating it. We do not want the bureaucrat in your medicine cabi-

net because we have plans that have been set up in this bill to negotiate with drug companies to bring down the price of drugs, exactly the same way the plans for the Federal employees bring down the price of drugs. They are very well thought out and a very good practice, but, most importantly, we do not want to duplicate the shortcomings of the Veterans' Administration program.

The second point I would give further explanation to is the exchange that went on belittling the AARP for backing this legislation. I compliment the AARP because we would not have a bill without the AARP backing this legislation, because the AARP had the capability of helping us get a bipartisan coalition. Without them, we would not have had a bipartisan coalition, and you do not get anything done in the Senate that is not done in a bipartisan way.

Now, what is odd about Democrats finding fault with the AARP backing this bipartisan bill is that the year before, in 2002, the AARP was backing Senator KENNEDY's bill. So it seems to me that for Democrats the AARP is OK if they are backing a Democrat bill, but if they want to back a bipartisan bill, it is a sin for the AARP to do such a thing.

The AARP is looking at individual pieces of legislation, looking out for the greater good of their members, and helping get a product as opposed to, presumably, people on the other side of the aisle who want an issue rather than a product. So I think the AARP has done very well. I compliment them for doing that. We would not have a bill without them.

What Democrats have to get over is that the senior citizens of America are not Democrat property. They are individual Americans, and they ought to be seen as individual Americans, and they and their organizations not be denigrated because the Democrats think they have a grip on all seniors of America; they do not. But that is the resentment toward the AARP.

Another issue I want to explain is the impression that we have given the bureaucracy 2 years to institute the permanent program for the reason that we wanted to get way beyond the next election. It was said that maybe the first Medicare Program, in 1965, was implemented in 8 months. I was told it was a little over a year. So, to me, 2 years—38 years later—to do the first major improvement to Medicare in 38 years, to do it right—and it was not the President who decided it would take 2 years, as was indicated. Way back when we were dealing with the tripartisan bill, in the year 2002, I and my staff asked the bureaucracy: We want this done right. How much time should we give you to implement it? These nonpolitical people, being honest with us, said about 2 years. So we gave 2 years for the implementation of it. It had nothing to do with the President of the United States. It had nothing to do

with the upcoming election. It is just our desire that if you are going to implement the first improvement in Medicare in 38 years, you ought to do it right. It was not our judgment of how much time it takes but a nonpolitical judgment of how much time it takes. That is what we were told, and that is what we did.

We do not wait for 2 years for this program to kick in. We have the temporary program that starts June 1, the discount card, and the subsidy for low-income people to get \$600 this year and \$600 next year to help them buy drugs while we are waiting to get the permanent program in place. Congress made that decision to take 2 years, not the President of the United States.

Now, there was also, throughout this discussion we heard, all sorts of insinuations that somehow this is a bill to benefit pharmaceuticals. Well, let me tell you, if the pharmaceutical companies had their way, there would not be any bill. But they knew there was going to be a bill. The drug companies that patent prescription drugs do not want generics out there. A very major provision of this bill to bring down the cost of drugs is that provision that does away with the legal subterfuge by which drug companies extend the life of their patent by making arrangements today with generic companies to keep their drug off the market, and they pay them to do it, so that, effectively, the patent is extended beyond 17 years. We did away with that. The pharmaceutical companies did not want that provision changed but we did that.

Another impression that is misleading has to do with the true cost of this bill. We hear the Congressional Budget Office says it is \$395 billion. Then a month or two later the Center for Medicare Services says it is \$535 billion.

Mr. President, is my time up?

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. GRASSLEY. Would the Senator from Minnesota allow me to have 2 more minutes?

The PRESIDING OFFICER. I think the Senator had 15 minutes in his original request, so he has 5 more minutes.

Mr. GRASSLEY. I thank the Chair.

The bottom line is, we have these accusations about what the true costs are. So I want to respond to those accusations we have heard that the "true costs" of the Medicare bill were somewhat hidden from Congress before the final vote. This is simply political, election year hyperbole. The opponents of the drug benefit are making this claim because the final cost estimate from the CMS Office of the Actuary was not completed before the vote took place.

Let me be very clear. The cost estimate was not withheld from Congress because there wasn't a final cost estimate from CMS to withhold. Their cost estimate wasn't even completed until after December 23, long after the House and Senate vote.

Let me also be clear we did have the official cost estimate on the Medicare bill before the vote, and that is the one from the Congressional Budget Office. As I have said, as both Senators from Minnesota know, the Congressional Budget Office is God when it comes to Congress having to go by a figure of what something costs. It doesn't matter what the Treasury Department says, OMB, or even CMS. The Congressional Budget Office is what we go by. If you don't go by it, you are subject to a point of order. That point of order takes an extraordinary majority to overcome.

No government official should ever be muzzled for providing critical information to Congress. If that happened last year, that was wrong. These accusations about whether information was withheld have raised questions as to whether Congress had access to a valid and thorough cost estimate for the prescription drug bill before the final vote. It should also be made clear that while the cost analysis by the Office of Actuary is perhaps helpful, it is not the cost analysis Congress relies upon but that of the Congressional Budget Office, as I have already said. It is their cost estimate we use to determine whether legislation is within authorized budget limits.

For Congress, if there is a true cost estimate, it is by the Congressional Budget Office. The Congressional Budget Office cost estimate is the only one that matters. When Congress approved a \$400 billion reserve fund to create a Medicare prescription drug benefit, this meant \$400 billion, according to the Congressional Budget Office, not according to the Center for Medicare Services.

With all due respect to the dedicated staff working at the Center for Medicare Services Office of the Actuary, their cost estimates were irrelevant to the process. The Congressional Budget Office worked closely with the conferees to the prescription drug bill and the staff to ensure a full analysis of the projected costs was complete. The conferees and staff regularly and constantly consulted with the CBO throughout the development of the Senate bill and in preparation of the conference agreement. The Congressional Budget Office worked nearly around the clock and on weekends for months to complete an extremely thorough and rigorous cost analysis of the prescription drug bill. That cost estimate, the official cost estimate, was available to every Member of Congress before the measure was presented to the House or Senate for a vote.

It is also pretty disingenuous for the opponents of the Medicare bill—on the other side of the aisle, especially—to suggest the price tag for the Medicare bill causes them concern. The fact is, they supported proposals that cost hundreds of billions more than what we ended up passing last year. The House Democratic proposal last year would have cost nearly \$1 trillion, and the

Senate Democratic proposal in 2002 cost \$200 billion more than the bill that was enacted into law.

Further, there were more than 50 amendments offered on the floor of the Senate during the debate on the Senate bill that would have increased the cost of the bill by tens of billions of dollars.

The bottom line is, there should be no doubt in anyone's mind we had a true cost estimate for the prescription drug bill last year, and everyone had access to it before the vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

#### ETHANOL PENALTY IN HIGHWAY TRUST FUND FORMULA

Mr. DAYTON. Mr. President, I welcome the opportunity to express, on my behalf and that of my colleague and certainly the people of Minnesota, my gratitude to the Senator from Iowa, chairman of the Finance Committee, our distinguished neighbor to the south, for his phenomenal efforts in changing the ethanol penalty in the highway trust fund formula that will provide enormous benefit in the Senate bill to Minnesota and to his own State of Iowa. I have also been working with my colleague, the Senator from Minnesota, to try to do our best in our small way to support that effort and to be vigilant on the floor with regard to our caucuses. I certainly want to give credit where credit is due to the distinguished chairman of the Finance Committee for using his leadership position, and it is an enormous benefit to the State of Minnesota.

I express my gratitude and the gratitude of all Minnesotans to the Senator from Iowa for his initiative and leadership.

#### PENSION CONFERENCE REPORT

Mr. DAYTON. Mr. President, I thank my colleague from Minnesota, the Presiding Officer, for a letter I just signed with him to the employees of Northwest Airlines and also the steel companies in northeastern Minnesota on his initiative. This letter indicates both of us support the pension conference report which, fortunately, is going to be voted upon tomorrow in the Senate. I thank the Senator for his initiative on that, his calls imploring me to do what is in the best interest of important companies in Minnesota and the thousands of employees whose pensions depend upon those companies. I concur with my colleague and appreciate his giving me the opportunity to send that joint communication out to the thousands of Minnesotans for whom we will be acting tomorrow, in a bipartisan way, to protect for the future.

#### IRAQ

Mr. DAYTON. Mr. President, I want to take this opportunity to concur

with the sentiments that have been expressed earlier by a couple of my colleagues regarding the heroism of our Armed Forces in Iraq. However, I also want to point out our proper admiration for their extraordinary patriotism and courage and our sad but necessary condolences to the families of those Americans who are still losing their lives in increasing numbers in Iraq or who are suffering serious life-threatening and lifelong disabling injuries from those battles, those appropriate tributes and condolences and our unanimous bipartisan support in this body for our troops—who continue to risk their lives there and in Afghanistan and Bosnia and Kosovo—should not prevent us from questioning the Bush administration's policies or lack of policies which are exposing those courageous Americans to those continuing attacks and ask what are the administration's plans to respond to the present escalation of attacks in Iraq. What are the administration's plans to bring all of our courageous men and women home with their victory secured?

In fact, we owe it to them, those whose lives are on the line on our behalf, whose families are enduring every day and night the fear it could be their loved one who will be next to give up his or her life in the service of their country or their bodies, we owe it to them, those serving, and to their families to ask the hard questions of the administration and not hide behind platitudes.

I am, for one, tired of sitting in secret and top-secret briefings, either as a Member of this Senate or as a member of the Senate Armed Services Committee, and being told how well everything is going over in Iraq, given the chorus line again and again, just to find out, often the next day, that that is not true.

Last Tuesday a week ago, late afternoon, then Wednesday morning in Iraq, I was given those same kind of assurances by representatives of the highest level of the administration, the Department of Defense, and our military officials. Hours later, American contractors were ambushed in Iraq and bodies mutilated and displayed in obscene ways in that country. And hours after that, American marines were attacked and, in fact, were surprised, so that if it had not been for the intervention of U.S. commandoes, private security forces, even worse casualties could have occurred.

In the next few days, the escalating attacks in Iraq have caused the largest number of Americans to be killed of any time in this last year since the war began. It seems clear, based on the information I have been provided, that our military intelligence was unable to anticipate those attacks or to forewarn our Armed Forces of their imminence, their severity, which also resulted in additional casualties.

I am deeply troubled by reports in the press that the administration has

been intentionally trying to downplay the seriousness of those insurrections. Last Wednesday, as Americans were being mutilated, the only public event on the President's schedule was a meeting with members of the Baseball Hall of Fame. That night, he conducted a fundraiser for his reelection. Last Monday, as other Americans were losing their lives, including a Minnesota soldier who was 19 years old, from Moose Lake, MN, giving his life in Iraq, the President threw out the opening pitch at the baseball game in St. Louis, MO. That night, he held another fundraiser for his reelection that raised \$1.5 million. Then he flew on to, according to reports, his ranch in Crawford, TX, for the rest of the week.

I don't think you can downplay, or should try to downplay, the seriousness of these attacks. I think we should face the realities that are occurring, and the Congress and the American people should be told what is happening, why it is happening, and how it is we are

going to respond to these atrocities without any greater loss of American life. That is absolutely essential. We are heading to a weekend of great religious significance, following a weekend of great religious significance to many of our citizens, and at this time what we are doing there is something that is deeply troubling to this Senator, as I know it is to many of the people I represent in Minnesota. We want to see a victory there. We want to see the sacrifices that have been made by American troops justified, and we want it preserved as a victory that will last. But we want to know from this administration what the plan is, what the timetable is, what is going to happen, and what we are doing to forestall these events and warn our forces so they are not ambushed or caught unaware and lose their lives.

We in Congress deserve to get the facts and the truth. Starting tomorrow morning, when we have a briefing from the Secretary of Defense and others in

the military command, it is time to give us the facts, the truth, the real situation, and not put on any white-wash or window dressings but to tell us what we as elected representatives of the people of this country have a right to know, and what the people of America have a right to know. What is happening? Why is it becoming more severe? What are the consequences to the troops? And what are the administration's intentions to deal with them?

I yield the floor.

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ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until tomorrow, Thursday, April 8, at 10 a.m.

Thereupon, the Senate, at 8:08 p.m., adjourned until Thursday, April 8, 2004, at 10 a.m.

# EXTENSIONS OF REMARKS

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 8, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### APRIL 21

9:30 a.m.

#### Indian Affairs

To hold hearings to examine S. 297, to provide reforms and resources to the Bureau of Indian Affairs to improve the Federal acknowledgement process.

SR-485

10 a.m.

#### Joint Economic Committee

To hold hearings to examine the economic outlook.

SH-216

11:30 a.m.

#### Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

2 p.m.

#### Banking, Housing, and Urban Affairs

To hold hearings to examine the nominations of Romolo A. Bernardi, of New York, to be Deputy Secretary of Housing and Urban Development, Dennis C. Shea, of Virginia, to be Assistant Secretary for Policy Development and Research, and Cathy M. MacFarlane, of Virginia, to be Assistant Secretary for Public Policy, both of the Department of Housing and Urban Development.

SD-538

2:30 p.m.

#### Appropriations

##### Foreign Operations Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign assistance and to combat international terrorism.

SD-124

#### Energy and Natural Resources

##### Public Lands and Forests Subcommittee

To hold an oversight hearing to examine the implementation of the Recreation Fee Demonstration Program by the Forest Service and Bureau of Land Management, and on policies related to the program.

SD-366

### APRIL 27

10 a.m.

#### Energy and Natural Resources

To hold an oversight hearing to examine sustainable, low emission, electricity generation.

SD-366

### APRIL 28

9:30 a.m.

#### Indian Affairs

To hold hearings to examine S. 2172, to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs.

SR-485

### MAY 11

10 a.m.

#### Energy and Natural Resources

To hold hearings to examine the impacts and costs of last year's fires, focusing on the problems faced last year and what problems agencies and the land they oversee may face next season, including aerial fire fighting assests and crew, and overhead availability.

SD-366

### SEPTEMBER 21

10 a.m.

#### Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S3869–S3958*

**Measures Introduced:** Thirteen bills and three resolutions were introduced, as follows: S. 2290–2302, S.J. Res. 31–32, and S. Res. 333. **Pages S3919–20**

**Measures Passed:**

***American Revolution Commemoration Act Anniversary:*** Committee on the Judiciary was discharged from further consideration of S. 1108, to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and the bill was then passed.

**Pages S3950–51**

***Commending UConn Basketball Teams:*** Senate agreed to S. Res. 333, commending the Huskies of the University of Connecticut for winning the 2004 Division I Men's and Women's NCAA Basketball Championships.

**Page S3951**

***Pregnancy and Trauma Care Access Protection Act:*** Senate continued consideration of the motion to proceed to consideration of S. 2207, to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

**Pages S3877–80, S3894**

During consideration of this measure today, Senate also took the following action:

By 49 yeas to 48 nays (Vote No. 66), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the consideration of the motion to proceed to consideration of the bill.

**Page S3894**

Subsequently, the motion to proceed was withdrawn.

**Page S3894**

***Jumpstart Our Business Strength (JOBS) Act:*** Senate resumed consideration of S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the

United States, taking action on the following amendments proposed thereto: **Pages S3894–95**

Pending:

Harkin Amendment No. 2881, to amend the Fair Labor Standards Act of 1938 to clarify provisions relating to overtime pay.

Frist Motion to Recommit the bill to the Committee on Finance, with instructions to report back forthwith with the following amendment:

Frist Amendment No. 3011 (to the instructions of the Motion to Recommit the bill to the Committee on Finance), in the nature of a substitute.

Frist Amendment No. 3012 (to the instructions (Amendment No. 3011) of the Motion to Recommit the bill to the Committee on Finance), relative to the effective date following enactment of the Act.

Frist Amendment No. 3013 (to Amendment No. 3012), relative to the effective date following enactment of the Act.

During consideration of this measure today, Senate also took the following action:

By 50 yeas to 47 nays (Vote No. 67), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the Frist Motion to Recommit the bill to the Committee on Finance, with instructions.

**Pages S3994–95**

Senate may resume consideration of the bill on Thursday, April 8, 2004.

***Pension Funding Equity Act of Conference Report—Agreement:*** A unanimous-consent agreement was reached providing for consideration of the conference report to accompany H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, at 11 a.m. on Thursday, April 8, 2004; that there be four hours for debate, followed by a vote on adoption of the conference report.

**Page S3957**

***Appointments:*** (Received on Monday, April 5, 2004)

***Commission on Systemic Interoperability:*** The Chair, on behalf of the Democratic Leader, pursuant



to Public Law 108–173, appointed the following individual to serve as a member of the Commission on Systemic Interoperability: Fredrick W. Slunecka of South Dakota. **Pages S3729–30 (April 5, 2004 Record)**

**Measures Read First Time:** **Page S3918**

**Petitions and Memorials:** **Pages S3918–19**

**Executive Reports of Committees:** **Page S3919**

**Additional Cosponsors:** **Pages S3920–21**

**Statements on Introduced Bills/Resolutions:**  
**Pages S3921–45**

**Additional Statements:** **Pages S3917–18**

**Amendments Submitted:** **Pages S3945–49**

**Authority for Committees to Meet:** **Pages S3949–50**

**Privilege of the Floor:** **Page S3950**

**Record Votes:** Two record votes were taken today. (Total—67) **Pages S3894, S3894–95**

**Adjournment:** Senate convened at 9:45 a.m., and adjourned at 8:08 p.m., until 10 a.m., on Thursday, April 8, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on pages S3952.)

## Committee Meetings

(Committees not listed did not meet)

### APPROPRIATIONS: NATIONAL GUARD AND RESERVE

*Committee on Appropriations:* Subcommittee on Defense concluded a hearing to examine proposed budget estimates for fiscal year 2005 for the National Guard and Reserve, after receiving testimony from Lieutenant General H. Steven Blum, ARNG, Chief, National Guard Bureau; Lieutenant General Roger C. Schultz, ARNG, Director, Army National Guard; Lieutenant General Daniel James III, ANG, Director, Air National Guard; Lieutenant General James R. Helmly, USAR, Chief, Army Reserve; Vice Admiral John G. Cotton, USNR, Chief, Naval Reserve; Lieutenant General Dennis M. McCarthy, USMCR, Commander, Marine Forces Reserve; and Lieutenant General James E. Sherrard III, USAFR, Chief, Air Force Reserve.

### APPROPRIATIONS: IRS

*Committee on Appropriations:* Subcommittee on Transportation, Treasury and General Government concluded a hearing to examine proposed budget estimates for fiscal year 2005 for the Internal Revenue Service (IRS), focusing on tax law enforcement and information technology challenges, after receiving testimony from Mark W. Everson, Commissioner, Internal Revenue Service, and Pamela J. Gardiner,

Acting Inspector General for Tax Administration, both of the Department of the Treasury.

### APPROPRIATIONS: ARMY/NAVY MILITARY CONSTRUCTION

*Committee on Appropriations:* Subcommittee on Military Construction concluded a hearing to examine proposed budget estimates for fiscal year 2005 for Army and Navy military construction programs, after receiving testimony from Geoffrey G. Prosch, Acting Assistant Secretary of the Army (Installations and Environment); Major General Larry J. Lust, Assistant Chief of Staff for Installation Management, Department of the Army; Major General Walter F. Pudlowski, Jr., Special Assistant to the Director, Army National Guard; Brigadier General Gary M. Profit, Deputy Chief, Army Reserve; Hansford T. Johnson, Assistant Secretary of the Navy (Installations and Environment); Rear Admiral Michael Loose, Commander, Naval Facilities Engineering Command; and Brigadier General Willie Williams, Assistant Deputy Commandant for Installations and Logistics (Facilities), U.S. Marine Corps.

### APPROPRIATIONS: DEPARTMENT OF AGRICULTURE

*Committee on Appropriations:* Subcommittee on Agriculture, Rural Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2005 for certain Department of Agriculture programs, after receiving testimony from Keith Collins, Chief Economist, J.B. Penn, Under Secretary for Farm and Foreign Agriculture Services, Mark E. Rey, Under Secretary for Natural Resources and Environment, Joseph Jen, Under Secretary for Research, Education, and Economics, and Gilbert G. Gonzalez, Acting Under Secretary for Rural Development, all of the Department of Agriculture.

### DEFENSE AUTHORIZATION

*Committee on Armed Services:* Subcommittee on Strategic Forces concluded open and closed hearings to examine the proposed Defense Authorization Request for fiscal year 2005, focusing on defense intelligence programs and lessons learned in recent military operations, after receiving testimony from Stephen A. Cambone, Under Secretary of Defense for Intelligence, Lieutenant General Keith B. Alexander, USA, Deputy Chief of Staff, G–2, Department of the Army; Rear Admiral Richard B. Porterfield, USN, Director of Naval Intelligence, Headquarters, U.S. Navy; Major General Ronald F. Sams, USAF, Director of Intelligence, Surveillance and Reconnaissance, Department of the Air Force; Michael H. Decker, Acting Director for Intelligence, Headquarters, U.S. Marine Corps; and Brigadier General Donald C.

Wurster, USAF, Director for Intelligence and Information Operations, U.S. Special Operations Command.

#### NATIONAL BANK PREEMPTION RULES

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded a hearing to examine the National Bank Preemption Rules, focusing on Office of the Comptroller of the Currency rulemakings pertaining to the applicability of State laws to national banks, after receiving testimony from John D. Hawke, Jr., Comptroller of the Currency, Administrator of National Bank, Department of the Treasury; North Carolina Attorney General Roy Cooper, Raleigh; Gavin M. Gee, Idaho Department of Finance, Boise, on behalf of the Conference of State Bank Supervisors; Martin Eakes, Self-Help and Center for Responsible Lending, Durham, North Carolina; Joe Belew, Consumer Bankers Association, Arlington, Virginia; William M. Isaac, Secura Group, Falls Church, Virginia; and Walter T. McDonald, National Association of Realtors, Arthur E. Wilmarth, Jr., George Washington University Law Center, and James D. McLaughlin, American Bankers Association, all of Washington, D.C.

#### NEAR EARTH OBJECTS

*Committee on Commerce, Science, and Transportation:* Subcommittee on Science, Technology, and Space concluded a hearing to examine the nature and origin of Near Earth Objects (asteroids and periodic comets), including the potential hazard they may pose, after receiving testimony from G.W. Van Citters, Director, Division of Astronomical Sciences, National Science Foundation; Lindley N. Johnson, Program Scientist, Near Earth Object Observation Program, Office of Space Science, National Aeronautics and Space Administration; Grant H. Stokes, Near-Earth Object Science Definition Team, Massachusetts Institute of Technology Lincoln Laboratory, Lexington; Michael D. Griffin, Johns Hopkins University Applied Physics Laboratory, Laurel, Maryland; and Rusty Schweickart and Edward Lu, both of B612 Foundation, Tiburon, California.

#### COAST GUARD OVERSIGHT

*Committee on Commerce, Science, and Transportation:* Subcommittee on Oceans, Fisheries and Coast Guard concluded an oversight hearing to examine U.S. Coast Guard activities, readiness, mission balance, and the proposed budget request for fiscal year 2005, after receiving testimony from Admiral Thomas H. Collins, Commandant, U.S. Coast Guard, Department of Homeland Security; and Margaret T. Wrightson, Director, Homeland Security and Justice Issues, General Accounting Office.

#### BUSINESS MEETING

*Committee on Environment and Public Works:* Committee ordered favorably reported the following business items:

S. 1814, to transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior;

S. 441, to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county, with an amendment in the nature of a substitute;

S. 2286, to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia; and

The nominations of Stephen L. Johnson, of Maryland, to be Deputy Administrator, Ann R. Klee, of Virginia, and Benjamin Grumbles, of Virginia, each to be an Assistant Administrator of the Environmental Protection Agency, Charles Johnson, of Utah, to be Chief Financial Officer, all of the Environmental Protection Agency, and Gary Lee Visscher, of Maryland, to be a Member of the Chemical Safety and Hazard Investigation Board.

#### DISTRICT OF COLUMBIA DRINKING WATER

*Committee on Environment and Public Works:* Subcommittee on Fisheries, Wildlife and Water concluded an oversight hearing to examine the detection of lead in District of Columbia drinking water, focusing on needed improvements in public communications and the status of short- and long-term solutions, after receiving testimony from Benjamin H. Grumbles, Acting Assistant Administrator for Water, and Donald S. Welsh, Administrator, Region III, both of the Environmental Protection Agency; Thomas P. Jacobus, General Manager, Washington Aqueduct, Baltimore District, U.S. Army Corps of Engineers; Jerry N. Johnson, District of Columbia Water and Sewer Authority, Daniel R. Lucey, District of Columbia Department of Health, Gloria Borland, Dupont Circle Parents, and Dana Best, Children's National Medical Center, all of Washington, D.C.; and Jody Lanard, Princeton, New Jersey.

#### MEDICAID HOME AND COMMUNITY SERVICES

*Committee on Finance:* Committee concluded a hearing to examine strategies to improve access to Medicaid home and community based services, focusing on giving older Americans and people with disabilities greater choices by expanding access to community based services, including the President's New Freedom Initiative and related measures S. 971 and S. 1394, after receiving testimony from Senator Harkin;

Dennis Smith, Director of the Center for Medicaid and State Operations, Centers for Medicare and Medicaid Services, Department of Health and Human Services; Carol Novak, Member, National Council on Disability; Ray Gerke, Iowa Olmstead Real Choices Consumer Task Force, Perry; Bruce E. Darling, Center for Disability Rights, Rochester, New York, on behalf of the ADAPT Community; Di Findley, Iowa CareGivers Association, Des Moines; and Jan Moss, Oklahoma City, Oklahoma.

### OIL-FOR-FOOD PROGRAM

*Committee on Foreign Relations:* Committee concluded a hearing to examine the United Nations oil-for-food program to address the humanitarian needs of the people of Iraq, focusing on recent allegations of possible mismanagement and abuse with regard to the implementation of the program, after receiving testimony from John D. Negroponte and Patrick F. Kennedy, each a United States Representative to the United Nations, United States Mission to the United Nations, New York, New York; Robin L. Raphel, Iraq Reconstruction Coordinator, Department of State; Joseph A. Christoff, Director, International Affairs and Trade, General Accounting Office; and Michael J. Thibault, Deputy Director, Defense Contract Audit Agency, Department of Defense.

### HIV/AIDS IN AFRICA

*Committee on Foreign Relations:* Subcommittee on African Affairs concluded a hearing to examine a progress report on fighting HIV/AIDS in Africa, focusing on funding for international health care initiatives HIV counseling and testing, and antiretroviral therapy, after receiving testimony from Randall L. Tobias, U.S. Global AIDS Coordinator, Department of State; Jonathan H. Mermin, Public Health Epidemiologist, Country Director for GAP Uganda, Centers for Disease Control and Prevention, Department of Health and Human Services; Ernest Darkoh, African Comprehensive HIV/AIDS Partnerships, Gabarone, Botswana; and Lulu Oguda, Doctors Without Borders, Cambridge, Massachusetts.

### NOMINATIONS

*Committee on Foreign Relations:* Committee concluded a hearing to examine the nominations of Marc McGowan Wall, of Virginia, to be Ambassador to Chad, John Campbell, of Virginia, to be Ambassador to Nigeria, and Scott H. DeLisi, of Minnesota, to be Ambassador to Eritrea, after each nominee testified and answered questions in their own behalf.

### POSTAL REFORM

*Committee on Governmental Affairs:* Committee continued hearings to examine U.S. Postal Service reform issues, focusing on the chairmen's perspective on

governance and rate-setting, including the ability of a modern system of ratemaking to provide adequate public protection while affording management the flexibility to easily and quickly adjust rates as circumstances and customers needs require, after receiving testimony from George Omas, Chairman, United States Postal Rate Commission; and S. David Fineman, Chairman, United States Postal Service Board of Governors.

### FEDERAL PRISON INDUSTRIES

*Committee on Governmental Affairs:* Subcommittee on Financial Management, the Budget, and International Security concluded a hearing to examine S. 346, to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, after receiving testimony from Senators Thomas and Stabenow; Harley G. Lappin, Director, Federal Bureau of Prisons, and Chief Executive Officer, Federal Prison Industries, Department of Justice; Jack R. Williams, Jr., Assistant Regional Administrator, Federal Supply Service (Region 3), General Services Administration; John M. Palatiello, Management Association for Private Photogrammetric Surveyors, Reston, Virginia, on behalf of the U.S. Chamber of Commerce; Kurt Weiss, U.S. Business Interiors, Alexandria, Virginia, on behalf of the Office Furniture Dealers Alliance; Andrew S. Linder, Power Connector, Inc., Long Island, New York; and Philip W. Glover, Council of Prison Locals, American Federation of Government Employees (AFL-CIO), Washington, D.C.

### BUSINESS MEETING

*Committee on Indian Affairs:* Committee ordered favorably reported S. 1955, to make technical corrections to laws relating to Native Americans, with an amendment in the nature of a substitute.

### NINTH CIRCUIT

*Committee on the Judiciary:* Subcommittee on Administrative Oversight and the Courts concluded a hearing to examine a proposal to split the Ninth Circuit, focusing on the administrative aspects of a split, with reference to the most recent restructuring of a federal judicial circuit, including related measures S. 562 and S. 2278, after receiving testimony from Senator Murkowski; Diarmuid F. O'Scannlain, Mary M. Schroeder, Richard C. Tallman, and J. Clifford Wallace, each a Circuit Judge for the U.S. Court of Appeals for the Ninth Circuit; Gerald B. Tjoflat, Circuit Judge for the U.S. Court of Appeals for the Eleventh Circuit; and John C. Coughenour, Chief District Judge for the U.S. District Court for the Western District of Washington.

**GASOLINE PRICES**

*Committee on the Judiciary:* Subcommittee on Antitrust, Competition Policy and Consumer Rights concluded a hearing to examine crude oil relating to higher gas prices, focusing on merger enforcement in the oil and gasoline industries, gasoline monitoring and investigation initiative, the effects of market concentration on gasoline prices, and “boutique fuels”, after receiving testimony from Senator Wyden; William E. Kovacic, General Counsel, Federal Trade Commission; John Felmy, American Petroleum

Institute, and Mark Cooper, Consumer Federation of America, on behalf of Consumers Union, both of Washington, D.C.; Justine S. Hastings, Yale University Department of Economics, New Haven, Connecticut; and George A. Bermann, Columbia University School of Law, New York, New York.

**INTELLIGENCE**

*Select Committee on Intelligence:* Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

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# House of Representatives

**Chamber Action**

The House was not in session today. Pursuant to the provisions of H. Con. Res. 361, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate, it stands adjourned until 2 p.m. on Tuesday, April 20, 2004.

**Committee Meetings**

No Committee meetings were held.

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**COMMITTEE MEETINGS FOR  
THURSDAY, APRIL 8, 2004**

*(Committee meetings are open unless otherwise indicated)*

**Senate**

*Committee on Appropriations:* Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the Corporation for National and Community Service, 10 a.m., SD-628.

Subcommittee on Legislative Branch, to hold hearings to examine proposed budget estimates for fiscal year 2005 for the Office of the Architect of the Capitol and the Office of the Secretary of the Senate, 11 a.m., SD-138.

Subcommittee on Foreign Operations, to hold hearings to examine proposed budget estimates for fiscal year 2005 for foreign operations, 2:30 p.m., SD-124.

*Committee on Armed Services:* to hold hearings, in closed session, to examine military implications of the United Nations Convention on the Law of the Sea; to be followed by an open session at 11 a.m. in SD-106, 10:30 a.m., SR-222.

*Committee on Banking, Housing, and Urban Affairs:* to resume hearings to examine current investigations and regulatory actions regarding the mutual fund industry, 10 a.m., SD-538.

*Committee on Commerce, Science, and Transportation:* business meeting to consider pending calendar business, 11 a.m., SR-253.

*Committee on Energy and Natural Resources:* Subcommittee on National Parks, to hold hearings to examine National Park Service concessions program, including implementation of the National Park Service Concessions Management Improvement Act (Public Law 105-391), 2:30 p.m., SD-366.

*Committee on Foreign Relations:* Subcommittee on European Affairs, to hold hearings to examine anti-Semitism in Europe, 2:30 p.m., SD-419.

*Committee on Governmental Affairs:* Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, to hold hearings to examine implementing the Medicare Prescription Drug Program, 9:30 a.m., SD-342.

*Committee on the Judiciary:* to hold hearings to examine the nominations of Robert Bryan Harwell, to be United States District Judge for the District of South Carolina, George P. Schiavelli, to be United States District Judge for the Central District of California, William Duane Benton, of Missouri, to be United States Circuit Judge for the Eighth Circuit, and Curtis V. Gomez, to be Judge for the District Court of the Virgin Islands, 10 a.m., SD-226.

Full Committee, to hold hearings to examine safety concerns of America's Mass Transportation System, 2:30 p.m., SD-226.

**House**

No Committee meetings are scheduled.

*Next Meeting of the SENATE*

10 a.m., Thursday, April 8

*Next Meeting of the HOUSE OF REPRESENTATIVES*

2 p.m., Tuesday, April 20

## Senate Chamber

**Program for Thursday:** After the transaction of any morning business (not to extend beyond 11 a.m.), Senate will begin consideration of the conference report to accompany H.R. 3108, Pension Funding Equity Act, with four hours of debate, followed by a vote on adoption of the conference report. Also, Senate may resume consideration of S. 1637, Jumpstart Our Business Strength (JOBS) Act.

## House Chamber

**Program for Tuesday:** To be announced.



## Congressional Record

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